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APPEARANCES: **Reptg. Chinook Solar, LLC:**
Douglas L. Patch, Esq. (*Orr & Reno*)
Susan Geiger, Esq. (*Orr & Reno*)

Reptg. Counsel for the Public:
Heather Neville, Esq.
Assistant Attorney General
N.H. Department of Justice

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DANA VALLEAU

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
APP EX 1	Application for Certificate of Site and Facility dated October 18, 2019 <i>[Redacted - for PUBLIC Use]</i>	<i>premarked</i>
APP EX 1	Application for Certificate of Site and Facility dated October 18, 2019 {CONFIDENTIAL & PROPRIETARY}	<i>premarked</i>
APP EX 2	Prefiled Testimony of Heath Barefoot	<i>premarked</i>
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APP EX 14	Appendix 02 Option and Lease Agreements Memoranda	<i>premarked</i>
APP EX 15	Appendix 03 USACE Letter Confirming no Jurisdiction	<i>premarked</i>
APP EX 16	Appendix 04 AoT Permit Applications	<i>premarked</i>
APP EX 17	Appendix 05 Project Schedule	<i>premarked</i>
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APP EX 22	Appendix 09A Geotechnical Investigation Report	<i>premarked</i>
APP EX 23	Appendix 09B Soil Survey Report	<i>premarked</i>
APP EX 24	Appendix 10 Documentation of Public Information Session	<i>premarked</i>

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APP EX 25	Appendix 11 Certification of Mailing to Towns	<i>premarked</i>
APP EX 26	Appendix 12A NextEra Energy 2018 Annual Report	<i>premarked</i>
APP EX 27	Appendix 12B Financial Statement <i>[Redacted - For PUBLIC Use]</i>	<i>premarked</i>
APP EX 27	Appendix 12B Financial Statement {CONFIDENTIAL & PROPRIETARY}	<i>premarked</i>
APP EX 28	Appendix 13 Visual Impact Analysis	<i>premarked</i>
APP EX 29	Appendix 14A Phase IA Archaeological Assessment Report <i>[Redacted - For PUBLIC Use]</i>	<i>premarked</i>
APP EX 29	Appendix 14A Phase IA Archaeological Assessment Report {CONFIDENTIAL & PROPRIETARY}	<i>premarked</i>
APP EX 30	Appendix 14B NHDHR Concurrence letter for Phase IA Assessment	<i>premarked</i>
APP EX 31	Appendix 14C Phase IB Archaeological Assessment Report <i>[Redacted - For PUBLIC Use]</i>	<i>premarked</i>
APP EX 31	Appendix 14C Phase IB Archaeological Assessment Report {CONFIDENTIAL & PROPRIETARY}	<i>premarked</i>

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APP EX 34	Appendix 14F NHDHR Project Area Form	<i>premarked</i>
APP EX 35	Appendix 14G NHDHR Project Area Form Response letter	<i>premarked</i>
APP EX 36	Appendix 14H Determination Effects Form	<i>premarked</i>
APP EX 37	Appendix 14I NHDHR Concurrence letter for Effects Evaluation	<i>premarked</i>
APP EX 38	Appendix 15A Greenhouse Gas Analysis Report	<i>premarked</i>
APP EX 39	Appendix 15B Spill Prevention, Control, and Countermeasures Plan	<i>premarked</i>
APP EX 40	Appendix 15C NH Natural Heritage Bureau Correspondence <i>[Redacted - For PUBLIC Use]</i>	<i>premarked</i>
APP EX 40	Appendix 15C NH Natural Heritage Bureau Correspondence {CONFIDENTIAL & PROPRIETARY}	<i>premarked</i>
APP EX 41	Appendix 15D USFWS Official Species List	<i>premarked</i>

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APP EX 43	Appendix 15F NH Fish & Game Correspondence	<i>premarked</i>
APP EX 44	Appendix 15G Forest Composition Report	<i>premarked</i>
APP EX 45	Appendix 15H Wetland, Waterbody, and Vernal Pool Report	<i>premarked</i>
APP EX 46	Appendix 16A Fitzwilliam Commercial and Industrial Noise Ordinance	<i>premarked</i>
APP EX 47	Appendix 16B Sound Study	<i>premarked</i>
APP EX 48	Appendix 16C Decommissioning Plan	<i>premarked</i>
APP EX 49	Appendix 16D Emergency Response & Fire Safety Plan	<i>premarked</i>
APP EX 50	Appendix 17A Agency and Stakeholder Meeting Notes	<i>premarked</i>
APP EX 51	Appendix 17B SWRPC Comprehensive Economic Development Strategy Excerpt (January 2015)	<i>premarked</i>
APP EX 52	Appendix 17C SWRPC Monadnock Region Future Plan Excerpt (2015)	<i>premarked</i>

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APP EX 54	Appendix 17E Fitzwilliam Preservation of Rural Character Ordinance	<i>premarked</i>
APP EX 55	Appendix 17F Fitzwilliam Wetland Protection Overlay District	<i>premarked</i>
APP EX 56	Appendix 17G Fitzwilliam Solar Ordinance	<i>premarked</i>
APP EX 57	Appendix 18 Economic Impact Assessment	<i>premarked</i>
APP EX 58	Revised Appendix 18 Economic Impact Assessment (filed 07/10/20)	<i>premarked</i>
APP EX 59	Letter to SEC - Wetlands letter (filed 11/26/19)	<i>premarked</i>
APP EX 60	DHR Project Review Finding (filed 12/06/19)	<i>premarked</i>
APP EX 61	Transcript of Pub Info Session (filed 01/15/20)	<i>premarked</i>
APP EX 62	SEC Notice to Towns (filed 01/29/20)	<i>premarked</i>
APP EX 63	DHR letter to K. Mack (01/31/20)	<i>premarked</i>
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APP EX 65	DES Draft Permit Conditions (filed 04/06/20)	<i>premarked</i>
APP EX 66	DHR Progress Report (filed 04/17/20)	<i>premarked</i>
APP EX 67	Memorandum of Understanding (filed 8/27/20)	<i>premarked</i>
APP EX 68	Supplemental Testimony of Heath Barefoot	<i>premarked</i>
APP EX 69	Supplemental Testimony of Joseph M. Balzano	<i>premarked</i>
APP EX 70	Supplemental Testimony of Dana Valleau	<i>premarked</i>
APP EX 71	Supplemental Testimony of Joseph Persechino	<i>premarked</i>
APP EX 72	Supplemental Testimony of Michael Buscher	<i>premarked</i>
APP EX 73	Supplemental Testimony of Marc C. Wallace	<i>premarked</i>
APP EX 74	Supplemental Testimony of Karen E. Mack	<i>premarked</i>
APP EX 75	Supplemental Testimony of Matthew Magnusson	<i>premarked</i>
APP EX 76	Supplemental Testimony of Keith Delallo	<i>premarked</i>
APP EX 77	Transcript of Public Hearing (filed 03/06/20)	<i>premarked</i>

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APP EX 78	Electronic versions of Figures C.3 and J.1 (filed 11/19/19)	<i>premarked</i>
APP EX 79	Appendix G to Visual Impact Analysis, Appendix 13 (filed 11/7/19)	<i>premarked</i>
APP EX 80	Stipulated Facts & Requested Findings of Applicant & CFP (filed 8/20/20)	<i>premarked</i>
APP EX 81	Stipulated Facts & Requested Findings of Applicant & CFP (filed 9/04/20)	<i>premarked</i>
APP EX 82	Revised plans & info requested by DES, Alteration of Terrain Bureau	<i>premarked</i>
APP EX 83	System Impact Study {CONFIDENTIAL & PROPRIETARY}	<i>premarked</i>
APP EX 84	Fish & Game Recommendations	<i>premarked</i>
APP EX 85	Letter from Fitzwilliam Planning Board	<i>premarked</i>
APP EX 86	DES Final Decision on Chinook	<i>premarked</i>
CFP EX 1	Prefiled Testimony of Arrowwood Environmental, LLC	<i>premarked</i>
CFP EX 2	Report generated by Arrowwood Environmental, LLC	<i>premarked</i>
CFP EX 3	Prefiled Testimony of Kavet, Rockler & Associates, LLC	<i>premarked</i>

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CFP EX 4	Report generated by Kavet, Rockler & Associates	<i>premarked</i>

P R O C E E D I N G

1
2 CHAIRWOMAN MARTIN: Good afternoon,
3 everyone. We're here this afternoon in Docket
4 2019-02, which is the Chinook Solar, LLC,
5 Application for a Certificate of Site and
6 Facility. We are here today for a hearing on the
7 Application. And, as I told you before, for
8 planning purposes, I plan to break from 3:00 to
9 3:15.

10 Because this is a remote hearing, and
11 for some of you it's their first, I need to make
12 a number of findings. And, so, I will just read
13 through those findings.

14 As Chairwoman of the Site Evaluation
15 Committee, I find that due to the State of
16 Emergency declared by the Governor as a result of
17 the COVID-19 pandemic, and in accordance with the
18 Governor's Emergency Order Number 12, pursuant to
19 Executive Order 2020-04, this public body is
20 authorized to meet electronically.

21 Please note that there is no physical
22 location to observe and listen contemporaneously
23 to this hearing, which was authorized pursuant to
24 the Governor's Emergency Order. However, in

1 accordance with the Emergency Order, I am
2 confirming that we are utilizing Webex for this
3 electronic hearing. All members of the Committee
4 have the ability to communicate contemporaneously
5 during this hearing through this platform, and
6 the public has access to contemporaneously listen
7 and, if necessary, participate.

8 We previously gave notice to the public
9 of the necessary information for accessing the
10 hearing in the Order of Notice and in the notice
11 that issued on Friday, September 11th. If
12 anybody does have a problem during this hearing,
13 please call (603)271-2431 immediately. In the
14 event the public is unable to access the hearing,
15 the hearing will be adjourned and rescheduled.

16 Okay. Let's start by taking roll call
17 attendance of the Committee members. When each
18 Committee member identifies him or herself,
19 please also state if anyone else is with you in
20 the same room, and, if so, identify that person.

21 My name is Dianne Martin. I am the
22 Chairwoman of the Site Evaluation Committee. And
23 I am alone at the Commission offices.

24 Mr. Arvelo, let's start with you. Can

1 you start over? Still on mute.

2 DIR. ARVELO: Thank you. Will Arvelo,
3 Director of the Division of Economic Development,
4 under the Business & Economic Affairs. I am
5 alone in my own office.

6 CHAIRWOMAN MARTIN: Okay. Thank you.
7 Mr. Pelletier.

8 Mr. Pelletier, you may be on mute. Can
9 you unmute?

10 *[No indication given.]*

11 CHAIRWOMAN MARTIN: Okay. I'm going to
12 come back to Mr. Pelletier.

13 Ms. Duprey.

14 MS. DUPREY: Hi. I'm Susan Duprey, a
15 member of the public. My son, Thaddeus, is in
16 and out of the room that I'm in, but not staying
17 here.

18 CHAIRWOMAN MARTIN: Okay. Thank you.
19 Mr. Olden -- I'm sorry about that.
20 Mr. Oldenburg.

21 MR. OLDENBURG: Good afternoon. My
22 name is Bill Oldenburg, Assistant Director of
23 Project Development at the New Hampshire DOT.
24 And I am alone in my office.

1 CHAIRWOMAN MARTIN: Okay. Thank you.
2 Mr. Wilson.

3 Do we have Mr. Wilson? Yes. There you
4 are.

5 DIR. WILSON: Ben Wilson, Director of
6 the Division of Historical Resources, State
7 Historic Preservation Officer. And I'm alone in
8 my office.

9 CHAIRWOMAN MARTIN: Okay. Thank you.
10 And Mr. Eaton.

11 MR. EATON: Hi. My name is Tom Eaton.
12 I am a public member. And I am also alone.

13 CHAIRWOMAN MARTIN: Okay. And we're
14 back to Mr. Pelletier. Are you there?

15 MR. PELLETIER: I am here.

16 CHAIRWOMAN MARTIN: Excellent.

17 MR. PELLETIER: I'm Rene Pelletier, the
18 Assistant Director of the Water Division at
19 Department of Environmental Services. Alone, and
20 sitting in the kitchen.

21 CHAIRWOMAN MARTIN: Okay. Great.
22 Thank you.

23 All right. Let's take appearances from
24 counsel. Starting with Mr. Patch.

1 MR. PATCH: Good afternoon. Doug
2 Patch, with the law firm of Orr & Reno, appearing
3 on behalf of Chinook Solar, LLC.

4 CHAIRWOMAN MARTIN: Okay. And I see
5 Attorney Geiger as well.

6 MS. GEIGER: Yes. Susan Geiger, also
7 from the law firm of Orr & Reno, representing
8 Chinook Solar, LLC.

9 CHAIRWOMAN MARTIN: Okay. Ms. Neville.

10 MS. NEVILLE: This is Heather Neville.
11 I'm the Assistant Attorney General assigned as
12 Counsel for the Public in this matter. I'm in my
13 office alone.

14 CHAIRWOMAN MARTIN: Okay. Thank you.
15 And, Attorney Iacopino, would you like to
16 introduce yourself?

17 MR. IACOPINO: Mike Iacopino, Counsel
18 for the Committee. And I am in my office in
19 Manchester, alone.

20 CHAIRWOMAN MARTIN: Okay. Great.

21 For exhibits, I received updated
22 exhibits today. And I have 86 exhibits for the
23 Applicant, prefiled and premarked as "Applicant's
24 Exhibits 1" to "86". For Counsel for the Public,

1 I have four exhibits prefiled and premarked as
2 "Counsel for the Public Exhibits 1" through "4".

3 Anything else on exhibits, before we
4 get started?

5 MR. PATCH: Nothing on Chinook's part.

6 CHAIRWOMAN MARTIN: Okay. Great. Any
7 preliminary matters we need to cover, before we
8 get started?

9 MR. PATCH: I have two things I'd like
10 to cover, if I could. The first one is, as I
11 think you know, Chinook had requested two partial
12 waivers from the decommissioning requirements,
13 that's contained in Site Committee Rules
14 301.08(d)(2)(d), which provides that "All
15 underground infrastructure at depths less than
16 four feet below grade be removed from the site"
17 during decommissioning. This was done in a
18 motion that was filed with the Committee when the
19 Application was filed back in October of 2019.

20 In an order dated December 17th, 2019,
21 the Committee denied the request without
22 prejudice. And we wish to renew our request that
23 a waiver be granted. We're not asking that you
24 make a determination at this point in time. But

1 we wanted to raise the issue now, so that, if the
2 Committee has questions of our witnesses on any
3 of these issues, they can be asked during their
4 testimony. The witnesses that have prefiled
5 testimony on that are being done as a panel,
6 they're our -- I think our fifth witness,
7 essentially, Keith Delallo and Joseph Persechino.

8 We do request, however, that before the
9 record closes, that you provide us with an
10 opportunity to address the issue, and that you
11 make a ruling on the waiver request.

12 So, that's the first issue I just
13 wanted to mention.

14 CHAIRWOMAN MARTIN: Okay. Thank you.

15 MR. PATCH: The second one is an issue
16 that relates to a subdivision of the Project. In
17 our Application, Exhibit 1, we said that, if the
18 Project is approved and constructed, that the
19 substation, and the land on which it is located,
20 would have to be transferred to National Grid,
21 and another third party that has rights to some
22 of the equipment in the switchyard. And that's
23 in order to connect the Project to the electric
24 transmission grid.

1 There's a map on Page 29 of Exhibit 1,
 2 and Figure G.1. Appendix 6, which is Exhibit 18,
 3 also has additional information about the
 4 substation. And, on Page 32 of the Application,
 5 in Exhibit 1, we describe the subdivision of land
 6 that would be necessary to accomplish the
 7 transfer. And, in Mr. Barefoot's original
 8 prefiled testimony, Exhibit 2, Page 7, he
 9 described it as well.

10 And the subdivision is necessary,
 11 because National Grid, which is the transmission
 12 system with which the Project is proposing to
 13 interconnect, insists on owning the land under
 14 the substation in fee simple. And that means
 15 that National Grid cannot lease the land from
 16 Chinook or accept an easement for the land. It
 17 must be conveyed as a separate piece of land by
 18 warranty deed and meet all the title standards in
 19 New Hampshire.

20 So, in order to accomplish this, a
 21 subdivision plan has to be approved and recorded
 22 in the Cheshire County Registry of Deeds,
 23 together with the two deeds from Chinook to
 24 National Grid and the other third party, which is

1 called "MAP". There's a state law, RSA 676:18,
2 which makes it a misdemeanor for the Register of
3 Deeds to record a subdivision plan without the
4 approval of the planning board. We've talked
5 with the Cheshire County Register of Deeds. She
6 indicates that she needs the signature of the
7 planning board to record a subdivision plan.

8 Because the Town of Fitzwilliam's
9 authority over the Project is preempted by this
10 Committee's authority under RSA 162-H, the
11 Planning Board has not conducted a review of the
12 subdivision. The MOU that Chinook has with the
13 Town of Fitzwilliam, which is our Exhibit 67, in
14 Section V.E, says, among other things, that "the
15 Town recognizes that Chinook must build a
16 substation, and...transfer it to National Grid."
17 It "agrees to waive its enforcement authority
18 related to the transfer, and any otherwise
19 applicable requirements or ordinances,
20 including...subdivision requirements." It
21 "agrees that a certificate from the Committee,
22 combined with the MOU, [should] be sufficient to
23 satisfy any statute requiring the approval of the
24 local board." And that "the Town, including...

1 the Planning Board, agrees to support efforts...
2 to accomplish the recording of any deeds...with
3 the Cheshire County Registry."

4 In addition to that, we have recently
5 submitted a letter from the Planning Board,
6 marked as "Exhibit 85", in which the Chair of the
7 Planning Board states that "the Board intends to
8 sign any plans required to be signed by the
9 Planning Board for the purpose of them being able
10 to be recorded, including the subdivision plan/s,
11 if the Committee [grants us a] certificate."

12 So, based on everything we know as of
13 this time, if the Committee does grant a
14 certificate, we should be able to get the
15 Planning Board's signature and record the deeds
16 and the subdivision plan.

17 During the prehearing conference,
18 Counsel to the Committee had raised the
19 possibility of the need for a legal memo on the
20 Committee's authority to preempt the need for
21 local subdivision approval. Again, based on the
22 language in the MOU, the letter from the Planning
23 Board, and everything we know at this point, we
24 don't believe that we need that from the

1 Committee.

2 We would, however, ask that, if the
3 Committee grants a certificate, that its order
4 and decision expressly state that the Committee
5 has reviewed and approved of the information
6 depicted in Figure G.1, in Exhibit 18, and then
7 also in the revised plans provided to the
8 Department of Environmental Services. That's
9 Exhibit 82, Page 20 of 129, has a slightly
10 revised version of the substation. And we ask
11 that the Committee expressly recognize the need
12 for the property to be subdivided and recorded,
13 in order to accomplish the transfer of the
14 property rights to National Grid and MAP, and
15 accomplish the interconnection of the Project to
16 the electric grid. Thank you.

17 So, I wanted to make sure that was on
18 the record. It's something that came up at the
19 prehearing conference. And we think we have what
20 is a good resolution of this, but wanted to make
21 sure that was noted on the record.

22 CHAIRWOMAN MARTIN: Was there any
23 discussion of doing a briefing on the legal
24 analysis that you did, so the Committee would

1 have that for deliberation?

2 MR. PATCH: I mean, the discussion was
3 more about a briefing to the issue of whether or
4 not the Committee has the authority to preempt
5 the Planning Board approval.

6 CHAIRWOMAN MARTIN: Uh-huh.

7 MR. PATCH: And we don't think we need
8 to address that preemption issue squarely.
9 There was not a discussion about that particular
10 issue.

11 CHAIRWOMAN MARTIN: Okay. Attorney
12 Iacopino.

13 MR. IACOPINO: Madam Chair, could we
14 request that Mr. Patch provide us with a written
15 finding that he's requesting? He's laid out
16 pretty specifically the type of language that he
17 would like to see in our order, if a certificate
18 is granted. It would be great if he could
19 provide us with that in writing, so that we have
20 it during the course of deliberations in this
21 matter.

22 MR. PATCH: I'd be happy to provide
23 that.

24 CHAIRWOMAN MARTIN: Okay. Great.

1 Thank you. And I'm going to look at the issue
2 you just addressed, and see whether or not
3 briefing would be helpful. And we can get back
4 to you on that as well.

5 MR. PATCH: Would you like me -- Madam
6 Chair, would you like me to put that in a letter,
7 essentially what I said today, in a letter, along
8 with the proposed language that Attorney Iacopino
9 just requested?

10 CHAIRWOMAN MARTIN: I think that would
11 be helpful. Thanks.

12 MR. PATCH: Okay.

13 CHAIRWOMAN MARTIN: Okay. Anything
14 else?

15 MR. PATCH: Nothing else on our part.

16 CHAIRWOMAN MARTIN: All right.
17 Attorney Neville, anything on your part?

18 *(Atty. Neville indicating in the*
19 *negative.)*

20 MS. NEVILLE: No.

21 CHAIRWOMAN MARTIN: Okay. Great.
22 Then, why don't we proceed. Mr. Patch, I'll hand
23 it over to you.

24 MR. PATCH: Okay. Our first witness is

[WITNESS: Barefoot]

1 Mr. Barefoot, Heath Barefoot.

2 CHAIRWOMAN MARTIN: Mr. Patnaude, can
3 you swear in the witness?

4 *(Whereupon **Heath Barefoot** was duly*
5 *sworn by the Court Reporter.)*

6 **HEATH BAREFOOT, SWORN**

7 **DIRECT EXAMINATION**

8 BY MR. PATCH:

9 Q And good afternoon, Mr. Barefoot. Could you
10 please state your name and address for the
11 record?

12 A Yes. My name is Heath Barefoot. And my business
13 address is 700 Universe Boulevard, Juno Beach,
14 Florida 33408.

15 Q And by whom are you employed and in what
16 capacity?

17 A I'm employed by NextEra Energy as a Project
18 Director in Renewable Development, where I have
19 oversight and management responsibility for
20 several early- and late-stage development
21 projects in New England.

22 Q Could you give the Committee a brief summary of
23 your qualifications?

24 A I have more than twenty years of professional

[WITNESS: Barefoot]

1 experience in financial services in energy
2 industries. I joined NextEra approximately eight
3 years ago, and have had experience in full
4 requirements as a business manager for power
5 generating assets and as -- and within renewables
6 development.

7 I also hold a Bachelor of Arts in
8 Economics from Duke University.

9 Q Are you the same witness who submitted prefiled
10 testimony in this docket that was dated "October
11 14th, 2019", it was actually filed on the 18th of
12 October, and that's been marked as "Applicant's
13 Exhibit 2"?

14 A Yes.

15 Q And you also submitted prefiled supplemental
16 testimony in this docket, dated "August 31st,
17 2020", which has been marked as "Exhibit 68"?

18 A Yes.

19 Q Do you have any corrections or updates to either
20 of your prefiled testimonies?

21 A No.

22 Q Okay. Then, would you be willing to provide a
23 brief summary of your testimony to the Committee?

24 A Sure. My testimony provides an overview of the

[WITNESS: Barefoot]

1 Project and the experience that NextEra Energy
2 Resources, the parent company, has in
3 constructing renewable energy projects such as
4 this. The resources that will be available to
5 Chinook, as well as the overall financial,
6 managerial, and technical capability.

7 I also provide a description of the
8 configuration and the design of the Project, and
9 how the electricity it produces will be delivered
10 to the grid.

11 I discuss the alternatives that were
12 considered, the public policy goals this Project
13 promotes, and how the views of municipal and
14 regional planning commissions and municipal
15 governing bodies have been taken into account.

16 As I noted in my supplemental
17 testimony, we have entered into a comprehensive
18 Memorandum of Understanding with the Town of
19 Fitzwilliam, which includes agreement on our part
20 to set aside more than 300 acres of land as
21 conservation. This has been premarked as
22 "Application Exhibit 67".

23 I also want to let the Committee now
24 that our Memorandum of Understanding with the

[WITNESS: Barefoot]

1 Town includes a provision that requires them to
2 support efforts to get the deeds related to the
3 subdivision associated with the substation
4 registered. Because of this, we do not need the
5 Committee to rule on whether it has preemptive
6 authority over a local subdivision.

7 We have a letter from the Fitzwilliam
8 Planning Board indicating that they will sign any
9 plans that are necessary in order for the plans
10 to be recorded by the Register of Deeds. And
11 they will grant that upon any approval of the
12 certificate by the Site Evaluation Committee.
13 This has been premarked as "Application Exhibit
14 85".

15 I also want to point out to the
16 Committee that we've entered into stipulations
17 with the Counsel for the Public that address many
18 of the findings that the Committee is required to
19 make, including that the Project will have a net
20 positive economic impact and will not unduly
21 interfere with the orderly development of the
22 region. And that the site will not have an
23 unreasonable adverse impact on aesthetics and
24 historic sites. And that it will not have an

[WITNESS: Barefoot]

1 unreasonable adverse effect on sound and air
2 quality.

3 And, finally, I wanted to let the
4 Committee know that we are still involved in
5 discussions with National Grid, Eversource,
6 Unitil, and ISO New England, about the
7 interconnection with the electric transmission
8 grid, which I explained in my supplemental
9 testimony.

10 Q So, one final question, Mr. Barefoot. If you
11 were asked the same questions contained in your
12 prefiled testimony, the original and the
13 supplemental, today, under oath, would your
14 answers be the same?

15 A Yes.

16 MR. PATCH: Okay. The witness is
17 available for cross-examination. Thank you.

18 CHAIRWOMAN MARTIN: Attorney Neville.

19 MS. NEVILLE: Sorry, I was not unmuted
20 for a minute.

21 Mr. Barefoot, thank you for your direct
22 testimony. I do have a couple of follow-up
23 questions.

24 **CROSS-EXAMINATION**

[WITNESS: Barefoot]

1 BY MS. NEVILLE:

2 Q If a certificate does issue on this Application,
3 do you intend to stay on as Project Manager
4 throughout construction?

5 A Once the Project becomes a construction project,
6 our -- NextEra's engineering and construction
7 team will appoint a project director that would
8 be responsible for the construction of the
9 facility.

10 I will note that our team recognizes
11 that it is our responsibility to ensure the
12 facility will be constructed within compliance of
13 any conditions imposed by the Committee.

14 Q Do you anticipate having anyone overseeing
15 environmental monitors during construction?

16 A Our construction contractor will have on staff a
17 qualified individual to monitor for any wildlife
18 impact. And we also anticipate having a third
19 party inspector for any stormwater-related
20 compliance. In addition, we have -- NextEra has
21 internal construction compliance personnel as
22 well.

23 Q Do you know, as you sit here today, if the
24 project director that would take over after you

[WITNESS: Barefoot]

1 would be the same individual that would oversee
2 the construction, operation, and, ultimately, if
3 the person was still there, decommissioning?

4 A Just so I'm clear on the question. Is the
5 question "whether the individual responsible for
6 construction will remain during the operating
7 period and oversee decommissioning?"

8 Q Yes. I'm just trying to understand if there will
9 be a clear person that would be the point of
10 contact for Chinook?

11 A Well, to answer maybe your first question, there
12 will be different individuals throughout the
13 various phases of operation. So, construction
14 will have one project manager. The operating
15 period would have another.

16 As it relates to point of contact, I
17 would like to refer you to the Memorandum of
18 Understanding that we reached with the Town,
19 which allows for phone numbers and e-mails to be
20 set up, such that there is a consistent point of
21 contact made available to the public.

22 Q Thank you. If there was a complaint lodged
23 against Chinook Solar, is there or will there be
24 a process in place on how that complaint would be

[WITNESS: Barefoot]

1 handled?

2 A Yes. So, as it's currently stated within the
3 Memorandum of Understanding, I believe we have to
4 acknowledge receipt of the complaint within one
5 business day, or by the end of the following
6 business day, and then address it within three
7 days, following receipt or acknowledgment of
8 receipt.

9 Q And is there a process to notify this Committee,
10 in addition to the Town?

11 A Currently, I'm not aware of one being
12 established. However, if that is something
13 that's requested by the Committee, we can set up
14 a process by which the Committee would be
15 notified.

16 Q Okay. And, if a certificate were to issue, with
17 a condition that required notification to the
18 Committee of any change in ownership or control,
19 is that something you anticipate?

20 A Yes. And this will be further addressed in the
21 testimony of Joseph Balzano. It is anticipated
22 that, if constructed, this Project would at some
23 point be financed. And, as part of involving
24 other investors, --

[WITNESS: Barefoot]

1 CHAIRWOMAN MARTIN: Mr. Barefoot, can
2 you pause for a moment?

3 WITNESS BAREFOOT: Yes.

4 CHAIRWOMAN MARTIN: Has everyone else
5 lost the video on Mr. Barefoot? Mr. Wind, can
6 you see him?

7 MR. WIND: No, I cannot see him.

8 CHAIRWOMAN MARTIN: Okay. We need,
9 because he's a witness, we need to get his video
10 back.

11 WITNESS BAREFOOT: Let me try --

12 CHAIRWOMAN MARTIN: Mr. Patnaude, let's
13 go off the record.

14 *[Off the record and brief*
15 *off-the-record discussion ensued.]*

16 CHAIRWOMAN MARTIN: Okay. Let's go
17 back on the record. You can proceed. I
18 apologize.

19 WITNESS BAREFOOT: That's okay.

20 **BY THE WITNESS:**

21 A So, I believe the question was regarding
22 notification to the Committee of any potential
23 change in ownership and/or of control. And we
24 anticipate at some point financing the Project.

[WITNESS: Barefoot]

1 I'll note that its construction is not contingent
2 upon receipt of financing. However, we may
3 choose to finance it.

4 And, in such a case, by involving
5 additional investors, there may be a change in
6 ownership structure. However, we would not have
7 a change in operational control. The Project
8 company would remain in charge of operational
9 control.

10 And, so, our request would be to allow
11 for the flexibility to finance the Project, as
12 necessary, with any resulting changes that might
13 be required to the ownership structure. However,
14 operating -- operational control would remain
15 consistent.

16 In the event there is any future
17 contemplated change in operational control, I
18 would anticipate going back before the Committee.

19 BY MS. NEVILLE:

20 Q Okay, I just want to make sure I understand. I
21 think, and I want to confirm, that if there was a
22 change in ownership or control, you would
23 anticipate coming back to the Committee. Is that
24 accurate?

[WITNESS: Barefoot]

1 A For a change in control only, is how we would
2 envision this. And only because, in order to
3 necessitate the financing, there is a need to
4 change the ownership entities.

5 Q Can you flesh that out a little more for me? Are
6 you talking about the members of the LLC of
7 Chinook Solar?

8 A Yes. So, Joseph Balzano again will address this
9 further in his testimony. But, currently,
10 Chinook Solar is an indirect wholly owned
11 subsidiary of NextEra Energy Resources. And, in
12 order to finance the Project, often there are
13 upstream changes required to that ownership
14 structure.

15 Q Is it anticipated that NextEra may not be a
16 parent company of Chinook Solar, LLC, in the near
17 future?

18 A If the Project is financed, NextEra would
19 remain -- would continue to retain an ownership
20 stake in the Project. However, there would be
21 additional investors that also would have their
22 ownership reflected, --

23 Q Is the intent --

24 A -- as far as the financing.

[WITNESS: Barefoot]

1 Q Oh, I apologize.

2 A No. That's all right.

3 Q So, my understanding, from looking through the
4 Application, is that, when the Application was
5 submitted, there was an intent to self-fund the
6 Project under NextEra. Is that still the intent
7 today?

8 A That's still the intent today.

9 Q Okay.

10 A However, I'd like to make clear that that intent
11 is -- relates to the construction of the
12 facility. So, once the facility is constructed,
13 at that point it's possible to finance the
14 Project company, which would involve additional
15 investors.

16 Q Is there an intent today to do such external
17 financing once construction is complete at this
18 Project?

19 A Plans haven't been finalized for this Project.
20 But that is typical of how many of our projects
21 are, funded through construction and then
22 financed upon completion.

23 Q Thank you. I note in the Memo of Understanding
24 with the Town of Fitzwilliam there is a section

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1 discussing a bond. Are you in a position to
2 discuss the bond, if I have questions? Or should
3 I wait for the next witness to talk about -- or a
4 future witness to talk about those finances?

5 A I can defer, if I can't answer, to the next
6 witness. But I'm happy to try and address any
7 questions you may have now.

8 Q Thank you. So, in that Memo of Understanding
9 with the Town of Fitzwilliam, I see a section
10 under a paragraph entitled "Project Noise &
11 Decommissioning Commitments", on Page 7. It's
12 Paragraph VI. In that paragraph, it discusses
13 the "mechanism of financial assurance". It
14 appears Chinook Solar agreed to provide a bond in
15 the amount of "\$900,432". How was that amount
16 determined, if you know?

17 A My recollection was that number was an estimate
18 Tighe & Bond provided, based on median industry
19 values in New England.

20 Q Okay. And do you have an understanding of who
21 the bond would issue to?

22 A I would have to confirm whether the Committee has
23 a preference. But, in most -- in my experience
24 on other projects, the bond is issued with the

[WITNESS: Barefoot]

1 town being named as beneficiary.

2 Q And the amount you totaled, is it a median for
3 ongoing operation and decommissioning?

4 A That relates to the decommissioning expense.

5 Q Okay. Do you have an understanding as to whether
6 or not NextEra would be willing to also provide a
7 financial guarantee?

8 A For what purpose?

9 Q Should something go awry, for either funding the
10 completion of the Project or the decommissioning?

11 A My understanding is that is the purpose of the
12 surety bond, which will be posted, that that --
13 that is the financial assurance that will be
14 provided in order to meet those obligations.

15 MS. NEVILLE: Okay. Thank you. Those
16 are the questions I have for Mr. Barefoot.

17 CHAIRWOMAN MARTIN: Okay. I'll just go
18 through the Committee members to see if you have
19 any questions.

20 Mr. Arvelo, I see your hand, and I was
21 going to start with you anyway. So, if you have
22 questions, go ahead.

23 DIR. ARVELO: Yes.

24 BY DIR. ARVELO:

[WITNESS: Barefoot]

1 Q And I think Attorney Neville asked some of this.
2 But I was interested in learning a little bit
3 more about the relationship between the parent
4 company, NextEra, and the local entities that
5 build these projects. And I understand that
6 there are 90 or so projects throughout the U.S.
7 that NextEra has built.

8 My question really relates to whether
9 there's been instances of NextEra not meeting its
10 obligation as it relates to funding those
11 projects? If there have been issues along the
12 way where one or more of those projects has not
13 been built? Or whether there is full commitment
14 throughout the whole process of planning and
15 construction and decommissioning? So, I'll leave
16 it there.

17 A So, if I understand the question correctly, it's
18 "whether NextEra has abandoned any facilities
19 during construction?"

20 Q Yes. Just whether NextEra has -- you said
21 NextEra has ample resources to carry these
22 projects through. So, I'm just curious to know
23 if there have been instances where those ample
24 resources have not been there, and if there are

[WITNESS: Barefoot]

1 projects that have not been completed because
2 of -- mostly because of resources not being
3 there?

4 A Understood. I'm not aware of any.

5 DIR. ARVELO: Okay. Thank you.

6 CHAIRWOMAN MARTIN: Any other questions
7 on that?

8 *[No verbal response.]*

9 CHAIRWOMAN MARTIN: Okay.

10 Mr. Pelletier, did you have any questions?

11 MR. PELLETIER: No.

12 BY MR. PELLETIER:

13 Q I guess one question I would have is that, when
14 they talk about the environmental monitoring, is
15 that anticipated that, if that is subcontracted,
16 albeit I understand that NextEra may have some
17 people on staff, is that the expectation that
18 will be monitored on a daily basis, with a
19 week-end -- do a weekly summary or a report? Or
20 how are we going to make sure that the
21 environmental issues, vis-a-vis stormwater and
22 the wildlife and all those other things, what
23 kind of monitoring frequency are we talking
24 about?

[WITNESS: Barefoot]

1 A I think it may vary by the requirements. So,
2 with stormwater, we anticipate weekly inspections
3 by a third party inspector, and following any
4 significant rainfall events, and weekly reports
5 typically are issued, which describe the site
6 conditions.

7 For wildlife, we anticipate there being
8 someone subcontracted to be local. And I
9 anticipate that, prior to certain construction
10 activities, the necessary inspections being made
11 to ensure compliance with any conditions imposed
12 by the Committee.

13 Q And can that --

14 MR. PELLETIER: If I might, Chair?

15 BY MR. PELLETIER:

16 Q So, if, in fact, there's monitoring, and most
17 stormwater BMPs are looked at on a significant or
18 rain event, do you have any idea about the inch
19 requirement that you would expect on-site
20 monitoring? And, if there were any surface water
21 quality contamination, there would be turbidity
22 readings taken? Is that part of the expectation
23 of a monitor?

24 A Yes.

[WITNESS: Barefoot]

1 MR. PELLETIER: Okay. Thank you.

2 CHAIRWOMAN MARTIN: Okay. I'm going to
3 go to Mr. Eaton next, just in case he needs to
4 step out. Do you have any questions?

5 MR. EATON: I do not. Thank you.

6 CHAIRWOMAN MARTIN: All right. Ms.
7 Duprey?

8 MS. DUPREY: No questions. Thank you.

9 CHAIRWOMAN MARTIN: All right. Mr.
10 Oldenburg?

11 MR. OLDENBURG: Thank you, Dianne. Mr.
12 Barefoot, I have a series of questions. And, if
13 any of my questions could be or should be
14 addressed by another witness, please let me know
15 and I'll continue on, because I can get in the
16 weeds somewhat.

17 BY MR. OLDENBURG:

18 Q And Appendix 5 is the Project schedule. And it
19 states there's an "Unrestricted Construction
20 Access" date, a start date, basically, of
21 November 2020.

22 With the whole COVID pandemic and
23 everything else, is that still believed to be
24 your start date?

[WITNESS: Barefoot]

1 A Some of this depends on the timing of the
2 issuance of a certificate. However, that date is
3 likely pushed to no earlier than December 1st.
4 But not for any COVID-related reasons. I think
5 it's just more the permitting reasons.

6 Q Correct. I didn't mean the -- I meant that the
7 delay in getting this, the hearing started, --

8 A Oh. I'm sorry. Yes.

9 Q -- hasn't delayed that?

10 A Right. I don't -- I wouldn't anticipate any
11 activity occurring prior to December 1st.

12 Q Do you know who -- who developed the Project
13 schedule? There's no name on it. So, I'm
14 wondering if it was a NextEra developed project
15 schedule or if Tighe & Bond had developed it as
16 part of the engineering components?

17 A NextEra developed that schedule.

18 Q Okay. So, some of the activities that are shown,
19 and in some of the prefiled testimony of various
20 people talked about hiring local contractors or
21 contractors themselves. So, do you know if
22 you're going to use local subcontractors, and on
23 what type of activities? So, example, the
24 logging, I imagine, is going to be local. The

[WITNESS: Barefoot]

1 civil sitework, would that be local as well?

2 A It's anticipated that tree clearing, civil site
3 prep, those types of functions very often are
4 locally sourced.

5 Q Okay. So, installing the posts and installing
6 the panels themselves, is that a specialty
7 contractor? Or is that a -- a civil site person
8 can do that or a drilling crew? Or how is that
9 normally done?

10 A Probably a combination. I'd say it's the
11 preference of any contractor to use as much local
12 labor as possible. However, in order to meet
13 their construction schedule or timeline, it's
14 possible to augment that force -- workforce with
15 travelers, if necessary.

16 Q Okay. And the substation, I imagine, is going to
17 be done by electrical crews, either Eversource or
18 IBEW crews, right?

19 A Substation work is skilled labor.

20 Q Yes. So, I think you touched upon this, but any
21 of the subcontractors do you know would be
22 brought in from out-of-state to work on the
23 Project, instead of using local?

24 A I just wouldn't be able to -- no determination

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1 has been made to that far.

2 Q Thank you. And I'll just sort of preface this,
3 I'll be bringing this up in more detail with the
4 engineering panel, is, and why I bring it up, is
5 the production rate. In looking at the schedule,
6 just the production rate needed to install the
7 number of posts and the date given is -- I don't
8 know, if you took every drilling crew or every
9 crew in New Hampshire and did that, it's like
10 23,000 posts have to be done in 47 days. And
11 that means they have to -- they've got to do a
12 post a minute or something like that, I've done
13 the math. And it's just that the schedule to me,
14 being ten months long from start to finish, or
15 from unrestricted access to energization, it
16 is -- it just made me question the whole -- being
17 able to meet that production rate in that
18 schedule.

19 So, I guess my sort of last question
20 is, are there any obligations that you have to
21 meet that, that operational date of September
22 '21?

23 *[Cellphone ringing.]*

24 WITNESS BAREFOOT: My apologies.

[WITNESS: Barefoot]

1 BY MR. OLDENBURG:

2 Q I'm looking at if you're going to default on
3 anything or you're not going to walk away halfway
4 through this. This sort of leads to the other
5 questions that were asked about, it seems like a
6 very aggressive schedule to me. And, if you
7 don't meet that energization date of September
8 21st [September '21?], you're not going to walk
9 away or default on anything or be financially in
10 a bad way that you're not going to complete the
11 Project?

12 A When the Project starts construction, the funds
13 available -- that are necessary to build the
14 Project will be made available at that time.

15 MR. OLDENBURG: Okay. All right.
16 That's all the questions I had. Thank you.

17 CHAIRWOMAN MARTIN: Okay. Mr. Wilson,
18 did you have any questions?

19 DIR. WILSON: I don't have any
20 questions. I just want to note for the record
21 that we did have -- the Division of Historical
22 Resources, in our report to the Committee, did
23 request three conditions that speak to resources
24 that might be found during the construction

[WITNESS: Barefoot]

1 period that talk about consultation with our
2 office. And I just wanted to note that.

3 CHAIRWOMAN MARTIN: Okay. Thank you.
4 I have a couple questions.

5 BY CHAIRWOMAN MARTIN:

6 Q First, I heard a brief description of how
7 complaints are planned to be handled. Can you
8 walk us through more specifically what the
9 complaint process is expected to be?

10 A There will be a phone number established that
11 people can call with any complaints. There will
12 be an answering service that either answers or
13 monitors any incoming messages to that phone
14 number, and then it will be passed on to the
15 relevant contacts at NextEra to handle and
16 address those concerns.

17 Similarly, there will also be an e-mail
18 in-box set up that also will be monitored. And
19 those complaints will be forwarded to the
20 appropriate personnel to be addressed.

21 Q Is there a plan to put in place some type of
22 procedure related to responding to a complainant
23 and a period of time for that?

24 A Could you elaborate on the type of plan?

[WITNESS: Barefoot]

1 Q In other words, if you receive a complaint today,
2 is there a plan to have a response provided
3 within a set period of time?

4 A Yes. So, according to the Memorandum of
5 Understanding that we signed with the Town, if a
6 complaint was made today, I believe it's prior to
7 the end of the following business day we must
8 acknowledge receipt of that complaint, and then
9 we have three days to follow up.

10 Q Okay. Thank you. There was also a discussion
11 about the bond requirement, which I heard mention
12 of the "Project Noise and Decommissioning
13 Commitments", sort of as a preface to the bond
14 discussion, then later I heard a comment about
15 construction, I believe. And are multiple
16 bonds -- can you walk me through what the bond
17 requirements are here, who will they be provided
18 for and to?

19 A Sure. So, the bond necessary to decommission the
20 facility would be posted prior to the start of
21 construction. And, so, hypothetically speaking,
22 of course, if construction activity were to halt
23 and not continue, that bond would be available to
24 decommission the site.

[WITNESS: Barefoot]

1 Similarly, upon the end of its useful
2 life, it would also be available, provided that
3 that responsibility had not already been
4 addressed.

5 Q Okay.

6 A In other words, I think of the bond as providing
7 insurance, in the event that the Project company
8 did not perform. That is not meant to indicate
9 that there is an intention to not perform.

10 Q No, I understand that. I just wanted to be clear
11 about the specific bonds that were going to be
12 required for this. And it sounded like, at one
13 point, you were talking about a construction
14 performance bond, which is different from the
15 decommissioning bond?

16 A I envision it as being for the purpose of
17 decommissioning and restoring, as necessary, the
18 Project area. So, it would be issued prior to
19 the start of construction activity, for the
20 benefit of the Town, and may be used as
21 necessary.

22 CHAIRWOMAN MARTIN: Okay. Thank you.
23 I don't have any other questions.

24 Oh. Mr. Arvelo, do you have a

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1 follow-up?

2 DIR. ARVELO: Yes. Thank you.

3 BY DIR. ARVELO:

4 Q Mr. Barefoot, this is a follow-up to Chairwoman
5 Martin's question about complaints. And you
6 mentioned that the complaints flow up to NextEra.
7 So, my concern is, given NextEra's huge size, a
8 big company, kind of learn a little bit more
9 about the process for ensuring -- what assurances
10 are there that there will be a process in place
11 that will provide timely response to the local
12 community and the public, if there should be
13 complaints? Because it seems that those
14 decisions are not made locally, that they would
15 have to flow up to NextEra, according to your
16 testimony.

17 A The only way I know how to answer that is to
18 state definitively that we will establish a
19 process by which to address and handle any
20 concerns that are made. I mean, this is typical
21 of how we handle issues that may arise at other
22 sites as well.

23 You know, we have a group of business
24 managers that are responsible for the projects

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1 while they're in operation, as well as operation
2 folks. And, depending on the type of complaint,
3 they will be handled appropriately.

4 DIR. ARVELO: If I may, Chairwoman?

5 **BY THE WITNESS:**

6 A I'll just add further, you know, that NextEra is
7 a strategic owner and operator that, you know,
8 developing, constructing, operating facilities
9 such as this is very much a core business of
10 ours.

11 BY DIR. ARVELO:

12 Q Okay. Do you -- does NextEra have any data or
13 analysis of how they've over time responded to
14 other communities? You know, are they -- so, if
15 you say that these complaints flow up to them and
16 there's a response within three days, is there
17 any data that we can look at over time that
18 stipulates that that is the case? That there is
19 good proof that public complaints are being met
20 within a specific timeframe?

21 A I don't have any data available on that. I'll
22 just state that, as the world's most successful
23 developer and operator of renewable generating
24 assets, you know, a big reason as to why we have

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1 been able to achieve that has been partnering
2 within local communities. And we stand by our
3 commitment to work with those communities.

4 DIR. ARVELO: Thank you.

5 CHAIRWOMAN MARTIN: Okay. Any other
6 questions from the Committee?

7 *[No indication given.]*

8 CHAIRWOMAN MARTIN: Attorney Iacopino.

9 MR. IACOPINO: Thank you, Madam Chair.

10 BY MR. IACOPINO:

11 Q Mr. Barefoot, towards the beginning of your
12 testimony you referenced "ongoing negotiations
13 with the Independent System Operator". And you
14 have filed Exhibit 83, which is a confidential
15 exhibit, and has been titled on the Exhibit List
16 as the "System Impact Study".

17 Your direct testimony also mentions a
18 "Large Generation Interconnect Agreement". Is
19 that the same as the System Impact Study, which
20 is Exhibit 83?

21 A They're not the same.

22 Q Okay. Please tell the Committee the difference.
23 Don't get into any of the confidential details,
24 obviously.

[WITNESS: Barefoot]

1 A Correct. Yes. The System Impact Study
2 essentially analyzes what would be necessary,
3 from a technical perspective, in order to
4 integrate the generating facility into the
5 electric grid.

6 And, then, the Interconnection
7 Agreement, the Large Generator Interconnection
8 Agreement, is the agreement -- it's a three-party
9 agreement between ISO New England, which is the
10 System Operator; National Grid, which is the
11 transmission owner; and Chinook, the Project
12 company. And that is the agreement by which the
13 generator has its interconnection rights
14 established.

15 Q And what is the current status of negotiation on
16 the Large Generator Interconnection Agreement,
17 without getting into confidential details, of
18 course?

19 A Right. It's essentially complete, but for the
20 milestone dates. Milestone dates relating to,
21 essentially, the in-service date, when you may be
22 able to achieve your commercial operations.

23 Q Thank you. And when do you expect that those
24 negotiations will be completed?

[WITNESS: Barefoot]

1 A Very shortly, at which time we'd be happy to
2 update the Committee. Currently, we are -- we
3 have been in discussions with National Grid, as
4 well as the other affected parties, as it relates
5 to those milestone dates. And we anticipate
6 additional clarity here within the coming week or
7 so, at which point we will have more certainty
8 with what would go into our Interconnection
9 Agreement.

10 Q All right. Let me switch gears for a moment on
11 you.

12 Today, Chinook formally filed Exhibit
13 86, which is the DES Final Decision. That Final
14 Decision has the first three conditions had --
15 well, it had conditions, and the first three of
16 those conditions required that certain
17 information be provided to the Department of
18 Environmental Services.

19 Has Chinook complied with those three
20 conditions? If you know? If it's a question
21 better asked to Mr. Valleau or Mr. Persechino,
22 that's fine, too.

23 A I would prefer to defer to Mr. Persechino on that
24 question.

[WITNESS: Barefoot]

1 Q Okay. Thank you. And also, just to clear up one
2 thing, because there's been some discussion about
3 it. At the time of decommissioning, or if you
4 choose to shut down your Project early, it is the
5 intention of Chinook and its parent entities to
6 do the decommissioning themselves, correct?

7 A Yes.

8 Q Okay. And the surety bond, that is merely a
9 method to guarantee that, correct?

10 A Yes.

11 Q So, it's not your intent to leave the
12 decommissioning to either the Town or whoever the
13 bond is issued to as beneficiary?

14 A No.

15 MR. IACOPINO: Thank you. I don't have
16 any other questions, Madam Chair.

17 CHAIRWOMAN MARTIN: Okay. Mr. Patch,
18 do you have any redirect?

19 MR. PATCH: I do have a few questions
20 on redirect. Could I just have one minute to
21 check a couple of things? I'm sorry, it's a
22 little hard to do this over Webex, but --

23 CHAIRWOMAN MARTIN: Sure. That's fine.
24 Why don't we go off the record for a couple

[WITNESS: Barefoot]

1 minutes and we can take a break.

2 MR. PATCH: Thank you.

3 *(Brief recess taken at 2:17 p.m. and*
4 *the hearing resumed at 2:19 p.m.)*

5 CHAIRWOMAN MARTIN: All right. Let's
6 go back on the record. Mr. Patch, you can
7 proceed.

8 MR. PATCH: Okay.

9 **REDIRECT EXAMINATION**

10 BY MR. PATCH:

11 Q Mr. Barefoot, you were asked a couple of
12 questions I think by Counsel for the Public, and
13 then also by a Committee member about the
14 monitoring.

15 CHAIRWOMAN MARTIN: Attorney Patch, can
16 you hold off for one second. I don't see
17 Attorney Neville.

18 MR. PATCH: Okay.

19 CHAIRWOMAN MARTIN: Attorney Neville,
20 are you there?

21 *[No indication given.]*

22 CHAIRWOMAN MARTIN: Let's go off the
23 record for a minute until she returns.

24 *(Off the record.)*

[WITNESS: Barefoot]

1 CHAIRWOMAN MARTIN: Okay. Back on the
2 record. Attorney Patch.

3 BY MR. PATCH:

4 Q Mr. Barefoot, you were asked a few questions
5 about the monitoring. And I wanted to direct
6 your attention to Exhibit 86, which is the Final
7 Recommendation from DES. And, well, first of
8 all, Mr. Iacopino asked you whether or not the
9 information that was requested by September 4th
10 had been submitted. And, in Exhibit 86, the
11 first three paragraphs talk about information
12 that had to be submitted on September 4th. And I
13 would direct your attention to Exhibit --
14 Applicant's Exhibit 82, which is revised plans
15 and info requested by DES Alteration of Terrain
16 Bureau.

17 Is it your understanding that that is
18 the information that Mr. Persechino, with Tighe &
19 Bond, submitted to DES in response to the first
20 three paragraphs in the DES Final Recommendation?

21 A Yes.

22 Q Secondly, with regard to the questions about
23 monitoring, if you look at Paragraph or Number 5
24 of the Project Specific Conditions contained in

[WITNESS: Barefoot]

1 Exhibit 86, do you see where it says "The
2 permittee shall employ the services of an
3 Environmental Monitor for the purposes of
4 providing independent professional environmental
5 inspections of the project. The permittee shall
6 receive prior approval of the EM by the
7 Department. The EM shall inspect the project at
8 a minimum frequency of once per week and
9 following rainfall events of half an inch or
10 greater in a 24-hour period." Do you see that?

11 A Yes.

12 Q And does that answer the question that
13 Mr. Pelletier had about the amount of rainfall
14 and the frequency of inspections?

15 A I believe it does, yes.

16 Q You were asked a few questions about the handling
17 of complaints. And I believe that you had
18 indicated that there are provisions in the
19 Memorandum of Understanding with the Town that
20 cover that. And I want to direct your attention
21 to the Memorandum of Understanding itself, which
22 has been premarked as "Applicant's Exhibit 67".
23 And, on Page 1 of that, under the section "Public
24 Information, Communications, and Comments", it

[WITNESS: Barefoot]

1 has Paragraphs A and B. And Paragraph A talks
2 about "desiring to keep the public current with
3 respect to information about the construction,
4 operation, and decommissioning", and about a
5 "public outreach program to inform the Town and
6 abutting and nearby property owners". Is that
7 correct?

8 A That's correct.

9 Q And then, the subparagraph under there,
10 Paragraph 1, says "During construction, designate
11 an e-mail address and phone number to receive any
12 project concerns, acknowledge receipt of such
13 concerns prior to the end of the following
14 business day, and make commercially reasonable
15 efforts to respond to such concerns within three
16 days of receipt." Do you see that?

17 A Yes.

18 Q And then, "to maintain" -- "establish and
19 maintain a public website with weekly updates
20 during construction, reconstruction, and
21 decommissioning, and annual updates during
22 operation." Do you see that?

23 A Yes.

24 Q And, "Before the start of construction, Chinook

[WITNESS: Barefoot]

1 shall provide a brief FAQ or similar document to
2 the Town to assist the Town if it receives
3 inquiries about the Project." Is that correct?

4 A Yes.

5 Q And it also leaves the door open to other
6 measures that would be mutually agreed to by the
7 Town and NextEra as well, correct?

8 A Correct.

9 MR. PATCH: Okay. That's all the
10 questions I have. Thank you.

11 WITNESS BAREFOOT: Thank you.

12 CHAIRWOMAN MARTIN: Okay. Attorney
13 Neville, did you have any follow-up questions?

14 MS. NEVILLE: No. Thank you.

15 CHAIRWOMAN MARTIN: All right. Then,
16 we'll excuse this witness and move on to the
17 next. Attorney Patch.

18 MR. PATCH: Okay. We're ready for Lise
19 Laurin, who I think had been indicated she was
20 only an attendee before. So, she would need to
21 be admitted, I believe, as a witness. So, she is
22 our next witness.

23 MS. LAURIN: Hello.

24 CHAIRWOMAN MARTIN: I see her. All

[WITNESS: Laurin]

1 right. Mr. Patnaude, could you swear in the
2 witness.

3 (Whereupon **Lise Laurin** was duly sworn
4 by the Court Reporter.)

5 **LISE LAURIN, SWORN**

6 **DIRECT EXAMINATION**

7 BY MR. PATCH:

8 Q Good afternoon, Ms. Laurin.

9 A Good afternoon.

10 Q Would you start please by stating your name and
11 address?

12 A My name is Lise Laurin. And my business address
13 is EarthShift Global, LLC, 37 Route 236, Suite
14 112, Kittery, Maine 03904.

15 Q And by whom are you employed and in what
16 capacity?

17 A I'm the founder and CEO of EarthShift Global,
18 LLC.

19 Q Could you give the Committee a brief summary of
20 your qualifications?

21 A Greenhouse gas accounting is a subset of Life
22 Cycle Assessment. I'm a Certified Life Cycle
23 Assessment practitioner --

24 *[Court reporter interruption.]*

[WITNESS: Laurin]

1 MR. PATCH: I think you're going to
2 have to slow down for the court reporter.

3 WITNESS LAURIN: I'm sorry.

4 **BY THE WITNESS:**

5 A All right. Greenhouse gas accounting is a subset
6 of Life Cycle Assessment. I am a Life Cycle
7 Assessment practitioner, and have been doing and
8 teaching Life Cycle Assessment for over fifteen
9 years.

10 BY MR. PATCH:

11 Q Are you the same witness who submitted prefiled
12 testimony in this docket that was dated October
13 14th of 2019, it was actually filed on the 18th
14 of October, and which has been marked as
15 "Applicant's Exhibit 12"?

16 A Yes.

17 Q And you did not submit any supplemental testimony
18 in this docket, did you?

19 A No.

20 Q If you were asked the same questions contained in
21 your prefiled testimony today, under oath, would
22 your answers be the same?

23 A Yes.

24 Q Could you provide the Committee with a brief

[WITNESS: Laurin]

1 summary of your testimony, going slow?

2 A Yes. My testimony describes the greenhouse gas
3 impacts of the Chinook Solar Project, including
4 the effects of the Project on air quality and the
5 environment, in particular, the potential change
6 in the greenhouse gas emissions to the atmosphere
7 that could result from the Project, and the
8 Project's consistency with the objectives of
9 certain state policies. The conclusion of our
10 assessment was that this Project would result in
11 substantial greenhouse gas emission reductions.

12 My testimony also indicated that the
13 Project would be consistent with public policy
14 goals in New Hampshire law. Including the goal
15 of requiring 25 percent of electricity sold comes
16 from renewable sources by 2025; the goal of
17 providing fuel diversity; the goal of lowering
18 dependence on fossil fuels; and the goal of
19 reducing the amount of greenhouse gases, nitrogen
20 oxides, and particulate matter. For these
21 reasons, I believe the Project will have a
22 positive effect on public health and safety.

23 MR. PATCH: Thank you. The witness is
24 available for cross-examination.

[WITNESS: Laurin]

1 MS. NEVILLE: I do not have any
2 questions for this witness.

3 CHAIRWOMAN MARTIN: Okay. Thank you.
4 Mr. Wilson, do you have questions?

5 DIR. WILSON: I do not have any
6 questions.

7 CHAIRWOMAN MARTIN: Okay. Mr.
8 Oldenburg?

9 MR. OLDENBURG: I don't have any
10 questions.

11 CHAIRWOMAN MARTIN: All right. Ms.
12 Duprey?

13 MS. DUPREY: No questions.

14 CHAIRWOMAN MARTIN: Mr. Eaton?

15 MR. EATON: No questions.

16 CHAIRWOMAN MARTIN: Okay. Mr. Arvelo?

17 DIR. ARVELO: No questions.

18 CHAIRWOMAN MARTIN: All right. And Mr.
19 Pelletier?

20 MR. PELLETIER: No questions.

21 CHAIRWOMAN MARTIN: I don't have any
22 questions.

23 Attorney Iacopino, do you have any
24 questions?

[WITNESS: Laurin]

1 MR. IACOPINO: Just one question, I
2 guess.

3 BY MR. IACOPINO:

4 Q Ms. Laurin, your report characterizes the
5 difference between a solar installation, such as
6 the one that is seeking certification here, and a
7 natural gas plant of the same size, correct?

8 A Correct.

9 Q So, it would be a 30-megawatt natural gas plant?

10 A Correct.

11 Q Okay. And you say that the difference is that
12 the solar facility will cause 84 to 91 percent
13 less greenhouse gas emissions overall?

14 A Over its life, yes.

15 Q Okay. Is there -- have you quantified that in
16 terms of -- in terms of some larger environment?
17 In other words, how much of a real impact is that
18 on the environment, particularly in New
19 Hampshire?

20 A If you're asking for the total tonnage, I can
21 give you that. I do not have the total tonnage
22 of New Hampshire available to me at the moment.
23 Just give me one second.

24 So, over the life, it's a reduction of

[WITNESS: Laurin]

1 about a million tons of CO2 equivalents.

2 Q So, I mean, I asked the question because the Site
3 Evaluation Committee, at least in our experience
4 over the years, I mean, we've never seen a
5 natural gas plant of 30 megawatts. The natural
6 gas plants that we see are 500, 700 megawatts.
7 So, I was just wondering about that comparison,
8 in terms of how it actually affects the overall
9 environment. And, clearly, a 30-megawatt solar
10 facility can't replace the generation of a
11 500-megawatt gas plant. And we don't generally
12 see small gas plants. Although, they can -- I
13 know they exist, especially in the cogeneration
14 situations in various industries.

15 But I'm just trying to get an idea of
16 what that means to the general public?

17 A If I may comment on that? The actual production
18 of a natural gas plant is very small in that
19 overall life cycle impact. So, you could think
20 of this as 30 megawatts of a 500-megawatt plant.

21 So, if there were, what -- oh, my math
22 is not working right now. But, if there were
23 enough solar facilities of 30 megawatts to
24 replace this 500-megawatt facility, you could

[WITNESS: Laurin]

1 think of this as one of them. And this one would
2 reduce the emissions then by, as I said, about a
3 million tons of greenhouse gas emissions per --
4 over its lifetime. I just don't have the data
5 right here.

6 MR. IACOPINO: I understand. No
7 further questions, Madam Chair.

8 CHAIRWOMAN MARTIN: Okay. Any
9 redirect, Attorney Patch?

10 MR. PATCH: No redirect. Thank you.

11 CHAIRWOMAN MARTIN: All right. Then,
12 this witness is excused. And we can move on to
13 the next.

14 MS. GEIGER: The next witness is Joseph
15 Balzano. And, so, he needs to be admitted to the
16 meeting.

17 CHAIRWOMAN MARTIN: Mr. Balzano, do you
18 have your video on?

19 MR. BALZANO: I do. I'm trying to
20 figure out -- oh, here we go. Sorry. I was
21 trying to figure out how to turn it on.

22 CHAIRWOMAN MARTIN: Okay. Great.
23 Thank you.

24 Mr. Patnaude, could you swear in the

[WITNESS: Balzano]

1 witness please.

2 (Whereupon **Joseph M. Balzano** was duly
3 sworn by the Court Reporter.)

4 **JOSEPH M. BALZANO, SWORN**

5 **DIRECT EXAMINATION**

6 BY MS. GEIGER:

7 Q Mr. Balzano, please state your name, spell your
8 last name for the record, and provide your
9 business address?

10 A Sure. My name is Joseph Balzano. The last name
11 is spelled B, as in "boy", A-L-Z-A-N-O. And my
12 business address is 700 Universe Boulevard, Juno
13 Beach, Florida 33408.

14 Q Mr. Balzano, by whom are you employed and in what
15 capacity?

16 A I'm employed by NextEra Energy. I'm an Assistant
17 Treasurer for NextEra Energy, the parent, as well
18 as its principal subsidiaries, Florida Power &
19 Light, Gulf Power Company, NextEra Energy Capital
20 Holdings, as well as the various project entities
21 that are owned by Energy Resources, the renewable
22 assets across 36 states.

23 Q Could you please give the Committee a brief
24 summary of your qualifications?

[WITNESS: Balzano]

1 A Sure. My career has spanned about -- has spanned
2 over 20 years in professional finance experience,
3 in corporate finance related disciplines
4 primarily. My undergraduate and graduate studies
5 have been in finance and economics
6 specializations. I completed a Bachelor of
7 Business Administration from Florida Atlantic
8 University, where I later earned a Master of
9 Science degree in Economics. I also hold a
10 Master of Business Administration degree from
11 Cornell University's Samuel Curtis Johnson
12 Graduate School of Management.

13 In October of 2009, I joined NextEra
14 Energy in the Treasury organization, focusing on
15 executing the Company's capital raising plan,
16 including structuring project debt and tax equity
17 financings for NextEra Energy Resources'
18 renewable generation assets.

19 As a member of the NextEra Energy
20 Resources' mergers and acquisitions development
21 team, I also evaluated and negotiated potential
22 acquisitions of renewable generation assets from
23 third parties, and led the divestiture of select
24 assets as part of our capital recycling program.

[WITNESS: Balzano]

1 In October of 2013, I assumed my
2 current role, with responsibility of managing the
3 Company's credit ratings and its relationships
4 with the rating agencies. I also support the
5 Company's strategic and regulatory efforts as a
6 credit subject matter expert, and lead our fixed
7 income and project finance investor relation. I
8 oversee the cash management operations of NextEra
9 Energy and all of its subsidiaries.

10 Prior to joining NextEra, I was a
11 corporate --

12 *[Court reporter interruption.]*

13 **BY THE WITNESS:**

14 A Prior to joining NextEra, I was a corporate
15 credit associate analyst at Moody's Investor
16 Service, where I covered U.S. automobile and
17 capital goods industries. Also, an equity
18 research associate at Lazard covering the global
19 power industry.

20 *[Court reporter interruption.]*

21 CHAIRWOMAN MARTIN: Attorney Geiger --
22 no, let me interject.

23 Attorney Geiger, can you put yourself
24 on mute while the witness is speaking? That may

[WITNESS: Balzano]

1 help. Let's try that.

2 WITNESS BALZANO: Okay. I'll try that,
3 the last bit, it's at the very end. So, we're
4 almost through it.

5 **BY THE WITNESS:**

6 A I was also an equity research associate at Lazard
7 covering the global power industry, focusing on
8 regulated electric utilities and alternative
9 energy.

10 BY MS. GEIGER:

11 Q Are you the same witness who submitted prefiled
12 testimony in this docket dated October 14th,
13 2019, and filed on October 18th, 2019, which has
14 been marked as "Applicant's Exhibit Number 3"?

15 A Yes, I am.

16 Q And are you the same witness who submitted
17 prefiled supplemental testimony in this docket,
18 dated August 31st, 2020, which has been marked as
19 Applicant's Exhibit 69?

20 A Yes, I am.

21 Q Do you have any corrections or updates to either
22 your prefiled testimony or your prefiled
23 supplemental testimony?

24 A Yes. I have an update to the prefiled testimony.

[WITNESS: Balzano]

1 The first of which pertains to our updated
2 liquidity information that appears on Page 4,
3 Lines 15 through 16. "As of June 30th, 2020,
4 NextEra Energy Capital Holdings had over seven
5 and a half billion of net available liquidity
6 that primarily consists of bank revolving lines
7 of credit, letters of credit facilities, cash and
8 cash equivalents, less letters of credit issued
9 under the credit facilities."

10 Also, I'd like to update the numbers
11 appearing at the top of Page 5 of my prefiled
12 direct testimony as follows: On Page 5, Line 1,
13 the number "83 billion" should be "85 billion";
14 on Page 5, Line 2, the number "22,000" should be
15 "22,500"; and on Page 5, Line 4, the number "33"
16 should be "36".

17 Q Mr. Balzano, I believe that you referenced "Page
18 5, Line 2" of your prefiled direct testimony, and
19 changing the number "22,000" to "22,500". Did
20 you mean to say "20,000" should be changed to
21 "22,500"?

22 A Yes. "20,000" to "22,500". Sorry.

23 Q That's okay. So, with those corrections and
24 updates you just described, if you were asked the

[WITNESS: Balzano]

1 same questions contained in your prefiled
2 testimony and your supplemental prefiled
3 testimony today, under oath, would your answers
4 be the same?

5 A Yes, they would.

6 Q Could you please provide the Subcommittee with a
7 brief summary of your testimony?

8 A Sure. My testimony describes the financing
9 plans for constructing and decommissioning the
10 Chinook Project, and an overview of Project
11 financing. The Project will be initially
12 financed by NextEra Energy Capital Holdings,
13 Inc., the indirect corporate parent of Chinook
14 Solar, LLC. Although the Project is not
15 contingent on external financing during
16 development, construction or operation, Chinook
17 Solar may seek financing for the Project during
18 or after construction.

19 NEER has made capital investments of
20 over 85 billion over the past ten years, and has
21 developed over 22,500 megawatts of operating
22 assets across 36 states.

23 As indicated in my supplemental
24 prefiled testimony, Chinook Solar has agreed with

[WITNESS: Balzano]

1 the Town of Fitzwilliam's request that the
2 financial assurance mechanism for decommissioning
3 take the form of a surety bond in the amount of
4 \$900,432.

5 It is my opinion that the Applicant has
6 the financial capability to assure construction
7 and operation of the Project, in continuing
8 compliance with the terms and conditions of a
9 Certificate of Site and Facility, including
10 decommissioning.

11 Q Is there further information you'd like to
12 present to the Committee?

13 A Yes. As indicated in the Application, at Pages
14 41 through 42, and in my prefiled testimony, the
15 financing plan for the Project includes the
16 potential for external financing. External
17 financings are normally issued at a stand-alone
18 project entity level, but can also be issued as a
19 portfolio or holding entity level, depending on
20 the financing needs. To accomplish such a
21 financing, it is sometimes necessary to create
22 new entities within the ownership structure of
23 the Project.

24 It is my understanding that

[WITNESS: Balzano]

1 certificates issued by this Committee typically
2 include a condition stating that "the Applicant
3 must immediately notify the Site Evaluation
4 Committee of any change in ownership or ownership
5 structure of the Applicant or its affiliated
6 entity, and shall seek approval of the
7 Subcommittee of such change."

8 We would respectfully ask that, if the
9 Committee grants a certificate for the Project,
10 that the Applicant be required to provide notice,
11 but not obtain prior Committee approval for
12 external financings that do not result in a
13 change in the operational control of the solar
14 facility.

15 Suggested wording for that condition is
16 as follows, which we can also provide in writing:
17 "The Applicant must immediately notify the Site
18 Evaluation Committee of any financings that
19 create a change in ownership or ownership
20 structure of the Applicant or its affiliated
21 entity, but that do not result in a change in the
22 operational control of the Chinook Solar
23 facility. For all other changes in ownership or
24 ownership structure of the Applicant or its

[WITNESS: Balzano]

1 affiliated entity, the Applicant must immediately
2 notify the Site Evaluation Committee and shall
3 seek approval of the Subcommittee of such
4 change."

5 MS. GEIGER: Thank you, Mr. Balzano. I
6 don't have any further questions. This witness
7 is available for cross-examination.

8 MS. NEVILLE: Good afternoon. I have a
9 few questions. And I'm just trying to better
10 understand the guarantees or sureties during the
11 Project.

12 **CROSS-EXAMINATION**

13 BY MS. NEVILLE:

14 Q I understand from prior testimony that there is
15 the anticipation of a surety bond for
16 decommissioning. Is that right?

17 A Yes.

18 Q Are there any guarantees or sureties that relate
19 to the construction or ongoing operation of this
20 Project anticipated?

21 A Not that I'm aware of.

22 Q Would NextEra be comfortable giving a financial
23 guarantee for the construction and operation of
24 this Project?

[WITNESS: Balzano]

1 A That is something that I cannot commit to.

2 Q That you "cannot commit to", is that what you
3 said?

4 A Yes. That I cannot commit to. I cannot make
5 that decision.

6 Q Has NextEra ever provided a financial guarantee
7 in any other similar solar project?

8 A Not that I'm aware of. *[indecipherable audio]*
9 excellent stewards --

10 Q Mr. Balzano, you cut out.

11 A Okay.

12 Q Could you just repeat it? Could you repeat your
13 statement?

14 A Yes. I don't know where the background noise is
15 coming from. But it's not here. It's fine on my
16 end.

17 Okay. So, we consider ourselves to be
18 excellent stewards of the environment and of our
19 commitments. We are one of the highest rated
20 entities in the sector, in the industry. We take
21 our credit very seriously and our commitments
22 very seriously. And I am not aware of any
23 instance in which we have walked away from
24 construction of a facility or have not met our

[WITNESS: Balzano]

1 commitments.

2 Q Thank you. And taking that into account, do you
3 anticipate any pushback should a financial
4 guarantee be requested from NextEra?

5 A That I -- again, I'm not -- I'm not part of the
6 decision-making for that type of request.

7 Q I know you've submitted direct testimony, and it
8 discusses an overview of how Chinook Solar is
9 owned. Chinook Solar is an LLC, correct?

10 A Yes.

11 Q Who are the members of Chinook Solar, LLC?

12 A I believe that, today, it is just indirect
13 ownership through NextEra Energy Resources and
14 NextEra Energy Capital Holdings.

15 Q And my understanding of the testimony today is
16 that that ownership interest may change in the
17 future, dependent on financing. Is that
18 accurate?

19 A So, I think the best way to describe the
20 potential change in ownership, as it pertains to
21 financing, is that the -- for a renewable project
22 that has certain tax credits, it is common to use
23 tax equity financing, because builders or
24 developers, such as ourselves, through the use of

[WITNESS: Balzano]

1 bonus depreciation, other tax benefits that are
2 provided, are not immediate taxpayers. So, in
3 order to monetize the tax benefits more quickly,
4 there's often a tax equity financing done. The
5 IRS Code requires that any tax equity partner, in
6 order to be able to be allocated the tax benefit,
7 has to be a partner in the entity that owns the
8 Project.

9 The best way to think about it is that
10 it's very much akin to a financing, in that the
11 tax equity partner is repaid largely through the
12 tax benefit, through a disproportionate
13 allocation of the tax benefit to the tax equity
14 investor. And that, over time, once they meet
15 their targeted return, their ownership interest
16 is pretty *de minimus*, typically in the 5 to 10
17 percent area. And our financings generally
18 include in that prenegotiated buyout, at that
19 lower amount, such that, upon the tax benefits
20 being allocated to them, and them earning their
21 return, we then buy back the remaining interest
22 and own it outright.

23 Q So, my understanding --

24 A Sorry. It's a technical thing that the -- by the

[WITNESS: Balzano]

1 IRS Code, that the tax equity investor has to be
2 an owner in the entity in order to receive the
3 tax benefit.

4 Q I appreciate that testimony. So, my
5 understanding is that you're requesting to
6 provide notification, but not need approval from
7 the Committee for a change in ownership, is that
8 correct?

9 A So, yes. But where we are still operating the
10 asset and have control over the asset.

11 Q And can you just explain to me more about why
12 that request is being made?

13 A I think it's more so just for efficiency of both
14 ourselves and the Committee, being that I think
15 that the general way in which we finance these
16 solar facilities and wind sites is with the use
17 of tax equity for projects. And, so, we're
18 reviewing an opportunity to streamline the
19 process.

20 Q Because you anticipate getting approval from this
21 Committee would take longer than you anticipate
22 being able to spend?

23 A No. That's not what I said. I think that all I
24 said was that, instead of having to use

[WITNESS: Balzano]

1 additional resources and time of the Committee
2 and ourselves, it was an opportunity to discuss
3 it now.

4 Q Okay. And I don't want to belabor the point, but
5 I'm just trying to better understand the benefit
6 for both sides, if the approval is not -- if the
7 request to avoid SEC approval was granted, how
8 does that benefit both sides, if you're able to
9 answer that?

10 A I think that we were discussing basically seeking
11 that type of approval now, in advance, because of
12 the planned structure that we would like to be
13 used. So, I think that it's -- I think that
14 reasonable minds would agree that having
15 everybody come back and meet again to discuss
16 something that we might be able to discuss now
17 and go through that process now, might be the
18 most efficient use of everybody's time.

19 Q Do you know who the financing is anticipated to
20 be with?

21 A We work with a group of leading banks in the
22 country that are our primary tax equity
23 investors. We often use or enter into
24 commitments or, effectively, a letter of intent

[WITNESS: Balzano]

1 on the projects that we are going to be financing
2 with specific tax equity investors, once we
3 reached all of the approvals and are moving
4 forward and have clear line-of-sight to
5 completion.

6 Q As you sit here today, do you have any letters of
7 intent prepared for this Project?

8 A No. It's my understanding that we don't yet have
9 approval to construct the Project.

10 Q Roughly, how many investors are you talking about
11 in this group that you typically use?

12 A So, each asset likely only has one investor. But
13 we finance a significant amount of new build or
14 new assets that we put on the ground across the
15 country. And, so, we have partnerships with a
16 handful of different tax equity investors that we
17 work with across all of our assets. But any one
18 individual asset, depending on the size, would
19 have one or two other tax equity investors.

20 Q I just -- I'm trying to better understand it.
21 But how long does it -- in your experience, how
22 long does it take, from the time you make a
23 determination that you want to do this external
24 funding to putting it in place? Is it a very

[WITNESS: Balzano]

1 short timeframe, and that's why the request to
2 avoid approval is being made?

3 A It is typically such that, in order for the tax
4 equity partnership to be structured efficiently,
5 the tax equity investor needs to be a member of
6 the partnership that owns the asset upon the
7 asset going into commercial operation. So, it's
8 something that we would start working with the
9 investor when there's -- it depends on the
10 ultimate time that it's going to take until
11 completion, when we start, *etcetera*.

12 Q Thank you. Are there any other bonds anticipated
13 beyond the decommissioning bond, the
14 approximately \$900,432?

15 A Not to my knowledge.

16 MS. NEVILLE: Those are all the
17 questions that I have.

18 CHAIRWOMAN MARTIN: Okay. Mr. Wilson,
19 do you have questions?

20 DIR. WILSON: I do not have any
21 questions.

22 CHAIRWOMAN MARTIN: Okay. Thank you.
23 Mr. Oldenburg?

24 MR. OLDENBURG: Thank you. Just a few.

[WITNESS: Balzano]

1 BY MR. OLDENBURG:

2 Q The mention of the decommissioning bond of
3 \$900,000, that's solely for decommissioning
4 costs?

5 A Yes. I believe so.

6 Q Okay. Does that assume that the waiver -- the
7 decommissioning waiver was granted or not
8 granted?

9 A I apologize, but I'm not sure that I understand
10 what you mean by the "decommissioning waiver"?

11 Q So, there was a waiver that was requested to not
12 remove certain, you know, infrastructure below a
13 certain depth. And, so, that's up for debate.
14 And I'm just curious to whether or not the
15 \$900,000 assumes not removing that infrastructure
16 or if it does? And, because my next question
17 would be, if it doesn't assume removing that, and
18 the waiver is granted, \$900,000 is enough to do
19 that. But, if we don't grant the waiver, and you
20 have to remove it, I'm assuming there's
21 additional cost, and that \$900,000 surety would
22 increase?

23 A I don't know the answer to that.

24 Q Okay.

[WITNESS: Balzano]

1 A I don't know if there's another witness that can
2 answer it. If not, I'm happy to follow up with
3 the appropriate party to be responsive.

4 MR. OLDENBURG: Okay. Thank you.
5 That's all the questions I had.

6 CHAIRWOMAN MARTIN: Attorney Geiger, do
7 you have another witness who will be able to
8 answer that question?

9 MS. GEIGER: I was -- Madam Chairwoman,
10 I was just going to make the suggestion that we
11 take that question as a record request and follow
12 up with a response in writing.

13 CHAIRWOMAN MARTIN: Okay. I think that
14 makes sense.

15 MS. GEIGER: Thank you.

16 CHAIRWOMAN MARTIN: All right. Let's
17 see. Mr. Duprey, do you have questions?

18 MS. DUPREY: No thank you.

19 CHAIRWOMAN MARTIN: Okay. Mr. Eaton?

20 MR. EATON: I do not. Thank you.

21 CHAIRWOMAN MARTIN: All right. Mr.
22 Arvelo?

23 DIR. ARVELO: No questions at this
24 time.

[WITNESS: Balzano]

1 CHAIRWOMAN MARTIN: Okay.

2 Mr. Pelletier?

3 MR. PELLETIER: I do not. Thank you.

4 CHAIRWOMAN MARTIN: Okay. I have a few
5 questions. And I just lost you on my screen
6 there for a minute. Okay.

7 BY CHAIRWOMAN MARTIN:

8 Q Mr. Balzano, you said that you would -- or, the
9 Company, NextEra, would "seek financing during or
10 after construction". I just want to clarify for
11 the record. Mr. Barefoot testified earlier that
12 "it was the Company's intent to self-fund through
13 construction of the facility."

14 When you say "seek financing during
15 construction", is that for funding after
16 completion?

17 A So, I would not anticipate that we would be
18 seeking financing during construction.

19 Q Okay.

20 A That, if we move forward with the tax equity
21 structure, that's where the tax equity --

22 *[Court reporter interruption.]*

23 CHAIRWOMAN MARTIN: Mr. Balzano, can
24 you back up? I'll mute myself while you're

[WITNESS: Balzano]

1 speaking.

2 **BY THE WITNESS:**

3 A Okay. So, I would not anticipate that we would
4 be seeking financing during construction of the
5 asset. For example, however, if we do move
6 forward with the tax equity structure, the tax
7 equity investor would have to be an owner in the
8 partnership at the time that the asset enters
9 commercial operation. So, there is this timing
10 potential logistics, where -- just in order to
11 meet certain IRS Codes, of when the investor
12 would have to be in. But it would not be a
13 matter of needing those investment dollars to
14 construct the asset.

15 BY CHAIRWOMAN MARTIN:

16 Q Okay. So, at some point, between completion and
17 actually going operational, you perhaps may have
18 an additional owner. But you're not seeking
19 funding for construction?

20 A No.

21 Q Okay. Thank you. You mentioned the bond amount
22 of \$900,432. I'm wondering the source of the
23 data for that amount. Is that based on actual
24 decommissioning of other similarly sized

[WITNESS: Balzano]

1 projects?

2 A So, that is -- I'm not familiar with how that
3 number is arrived at. I think that Mr. Barefoot
4 mentioned that it's something that's based off of
5 a similar experience with this type of
6 decommissioning and the location. But, again,
7 that's something that I'm happy to take back and
8 follow up with a -- I think it's called a
9 "written response".

10 CHAIRWOMAN MARTIN: A record request.
11 Attorney Geiger, is that something you could get
12 us in a response? I'm interested in the data
13 that supports the amount of the bond.

14 MS. GEIGER: Certainly, I don't have
15 that information either, and don't know if it's
16 readily available. But we will endeavor to
17 provide that to you.

18 So, I think that that's the second
19 record request of the day, is that correct?

20 CHAIRWOMAN MARTIN: I think it is,
21 although Attorney Patch mentioned filing a letter
22 related to the subdivision at the beginning. So,
23 we could take that as a record request as well,
24 which would make three so far.

[WITNESS: Balzano]

1 MR. PATCH: And could I just -- this is
2 Mr. Patch. Could I just state for the record
3 that I believe Mr. Persechino's testimony
4 provides more detail about how the \$900,000 was
5 arrived at. And he certainly would be available
6 to answer questions about that.

7 CHAIRWOMAN MARTIN: Okay. So, perhaps,
8 why don't we wait on the Data 1, Attorney Geiger,
9 and see if we get that answered, before making it
10 a final request.

11 MS. GEIGER: Thank you. Yes.

12 CHAIRWOMAN MARTIN: Okay.

13 BY CHAIRWOMAN MARTIN:

14 Q I had a question about your reference to the --
15 your request that the Committee not require
16 approval, unless there's a change in operational
17 control. You provided some language there. Do
18 you have a definition of "operational control"
19 that you would propose?

20 A I believe that we can provide something like
21 that.

22 Q Okay. And can you describe for the Committee
23 what that means, in your opinion?

24 A So, I think that what that would mean is,

[WITNESS: Balzano]

1 basically, similar to almost what's required for
2 gas accounting, it would be based on who is
3 making the decisions on day-to-day operations --

4 *[Court reporter interruption.]*

5 CHAIRWOMAN MARTIN: We lost you for a
6 moment there.

7 BY CHAIRWOMAN MARTIN:

8 Q Let's back up to "who is making the decisions".

9 A Yes. So, that -- I think that "operational
10 control" is typically determined by who makes the
11 day-to-day operating decisions, as well as the, I
12 think, larger kind of planning and financial
13 decisions for the site. Who has control and does
14 not have to, I guess, get -- consult with others
15 for approval of the day-to-day operations.

16 Q And is that based upon some percentage of
17 ownership?

18 A So, for gas accounting purposes, it is -- I think
19 that there is a general rule on the ownership.
20 But I think that this is something that's best
21 for us to follow up on with proposed language for
22 "operational control".

23 CHAIRWOMAN MARTIN: Okay. I think that
24 that would be very helpful, because I know that

[WITNESS: Balzano]

1 that is an area that can be -- folks can differ
2 on what that means.

3 WITNESS BALZANO: No. Understood. I
4 just don't want to misspeak on kind of a
5 definition that's standard.

6 CHAIRWOMAN MARTIN: Okay. That is all
7 of my questions.

8 Attorney Iacopino, did you have other
9 questions?

10 MR. IACOPINO: Just one.

11 BY MR. IACOPINO:

12 Q In your typical tax equity financing with your
13 group of banks and whatnot, is the interest in
14 the -- in the special purpose entity, is it --
15 are the rights of the tax equity partner limited
16 normally?

17 A Yes. Yes, they normally are.

18 Q And how are they normally limited, in general
19 terms?

20 A It is typically more of, I guess, akin to a
21 passive investor. Where there's only -- there
22 will be, for example, predefined types of
23 decisions that we would consult with them on.
24 But we would be kind of the managing member and

[WITNESS: Balzano]

1 the party that makes the decisions of operating
2 the asset, and then we would provide periodic
3 reports to them, as part of kind of the
4 operational progress of the asset during each
5 period, whether it be semiannually, typically,
6 semiannually.

7 Q Would it be fair to compare it somewhat to
8 non-voting stock, so to speak, understanding it's
9 an LLC and not a corporation?

10 A Primarily, yes. But there would be certain major
11 decisions that they would have the ability to
12 weigh in on. And that's typically decisions like
13 where we would no longer be the managing member,
14 or it's very large, big decisions.

15 Q Like a sale of the assets?

16 A Yes. There's certain, I think, kind of
17 parameters within that.

18 MR. IACOPINO: Thank you. I don't have
19 any further questions, Madam Chair.

20 CHAIRWOMAN MARTIN: Okay. Thank you.
21 Any redirect, Attorney Geiger?

22 MS. GEIGER: Yes. I just want to have
23 Mr. Balzano explain exactly what the Applicant is
24 seeking, in terms of a condition, so, should a

[WITNESS: Balzano]

1 certificate be issued, and we'd be happy to
2 provide this in writing as well.

3 **REDIRECT EXAMINATION**

4 BY MS. GEIGER:

5 Q But, Mr. Balzano, just to make sure that the
6 record is clear. You are still asking the
7 Committee that the Applicant be required to
8 notify the Site Evaluation Committee should there
9 be a change in ownership or ownership structure
10 of the Applicant or affiliate, but only
11 notification with respect to those changes in
12 ownership that would do not result in a change in
13 the operational control of Chinook Solar or the
14 facility, is that correct?

15 A Yes. Correct.

16 Q Okay. And for any other changes of ownership or
17 ownership structure of the Applicant or its
18 affiliated entity, would the Applicant still be
19 willing to adhere to a condition that if we
20 notify the Committee and obtain prior approval of
21 the Subcommittee for such change?

22 A Yes. That is correct.

23 MS. GEIGER: Okay. I believe those are
24 all the questions that I have. Thank you.

[WITNESS: Balzano]

1 CHAIRWOMAN MARTIN: Okay. Thank you.
2 Then, this witness is excused.

3 And I think this is a good time to take
4 our break. And, so, we will go off the record
5 and recess until 3:25.

6 *(Recess taken at 3:09 p.m. and the*
7 *hearing resumed at 3:27 p.m.)*

8 CHAIRWOMAN MARTIN: All right. Then, I
9 turn it back to you, Mr. Patch.

10 MR. PATCH: Yes. Madam Chair, I have
11 one quick piece of information I think would be
12 useful to the Committee in response to the
13 question Mr. Oldenburg asked about the details of
14 decommissioning. Appendix 48 -- I'm sorry,
15 Exhibit 48, which is Appendix 16C to the original
16 Application, contains that detail. So, in case
17 he or any members of the Committee wanted to look
18 at it before the panel of Mr. Persechino and Mr.
19 Delallo testifies, the detail about the 900,000
20 plus is in there.

21 So, with that, I'm ready for Mr.
22 Valleau, who I think will be sworn in by the
23 Court Reporter.

24 MR. OLDENBURG: If I could, Madam

[WITNESS: Valleau]

1 Chair?

2 CHAIRWOMAN MARTIN: Yes. Go ahead.

3 MR. OLDENBURG: I did see that exhibit
4 and that appendix, but I didn't see clearly where
5 it says one way or the other whether the
6 infrastructure being removed was with the waiver
7 granted or without.

8 I could make the assumption, it says --
9 it says "things being removed as permitted and
10 required", I'm assuming that means without the
11 waiver being granted. But it isn't clear to me.

12 MR. PATCH: Yes. I think that's a fair
13 question. And that's something we plan to answer
14 in a written record request, too.

15 So, anyway, thank you.

16 CHAIRWOMAN MARTIN: Okay. Thank you.
17 You can proceed with your witness.

18 (Whereupon **Dana Valleau** was duly sworn
19 by the Court Reporter.)

20 **DANA VALLEAU, SWORN**

21 **DIRECT EXAMINATION**

22 BY MR. PATCH:

23 Q Okay. Good afternoon, Mr. Valleau.

24 A Hello.

[WITNESS: Valleau]

1 Q Could you state your name and address please?

2 A My name is Dana Valleau. I'll spelled that for
3 you: V, as in "Victor", A-L-L-E-A-U. And my
4 business address is TRC, 14 Gabriel Drive,
5 Augusta, Maine.

6 Q And by whom are you employed and in what
7 capacity?

8 A I am employed by TRC Environmental Corporation,
9 as an Environmental Specialist and Office
10 Manager.

11 Q Could you give the Committee a brief summary of
12 your qualifications?

13 A I have a Bachelor's of Science degree in Wildlife
14 Management from the University of Maine, and a
15 Law degree from the Maine School of Law. I am
16 also a Certified Wildlife Biologist, which is a
17 certification from the Wildlife Society, which is
18 an international society. I have worked for
19 state agencies, including the Maine Department of
20 Environmental Protection, in Licensing and
21 Enforcement, prior to becoming an environmental
22 consultant, where I have worked on a variety of
23 energy projects for over 21 years.

24 Q Are you the same witness who submitted prefiled

[WITNESS: Valteau]

1 testimony dated October 14th of 2019, which has
2 been marked as "Applicant's Exhibit 5"?

3 A Yes.

4 Q And the witness who submitted prefiled
5 supplemental testimony, dated August 31 of this
6 year, which has been marked as "Applicant's
7 Exhibit 70"?

8 A Yes.

9 Q Do you have any corrections or updates to either
10 of those prefiled testimonies?

11 A Yes. I have an update on a consultation that's
12 been ongoing with New Hampshire Fish & Game and
13 New Hampshire DES. I recently finalized and
14 submitted a Wildlife Assessment to New Hampshire
15 Fish & Game and the DES. I submitted that today,
16 to satisfy the requirements of the recently
17 enacted DES Rule Env-Wq 1503.19(h). And we
18 submitted under that current rule at the request
19 of DES.

20 Q And we have not provided a copy of that to the
21 Committee yet. As you said, you just submitted
22 that today, correct?

23 A Correct.

24 Q But we'd be happy to provide that to the

[WITNESS: Valteau]

1 Committee.

2 And is this part of the -- or, should
3 it be considered to be part of the Fish & Game
4 recommendations that have been marked as "Exhibit
5 84", that are, I believe, included in the DES --
6 in the information that was presented to DES on
7 September 4th by Chinook?

8 A Correct. Yes. It's a summary of the Wildlife
9 Habitat Assessment and protective measures that
10 are being proposed by the Project, which is also
11 included in the current plan set that was
12 submitted to DES.

13 Q Okay. Could you -- if you were asked the same
14 questions in both of those testimonies today,
15 would your answers be the same?

16 A Yes.

17 Q And could you provide a brief summary of your
18 testimony?

19 A Yes. My testimony describes the potential
20 effects of the Chinook Project on the natural
21 environment, which includes wetlands, vernal
22 pools, wildlife, and wildlife habitat.

23 Since the original testimony was filed,
24 we have worked with and responded to New

[WITNESS: Valteau]

1 Hampshire Fish & Game, DES, as well as
2 consultants that were hired by the Town and the
3 Counsel for the Public. And, as the result of
4 testimony and reports from the Town consultants
5 and the Counsel for the Public, we have conducted
6 additional surveys and analyses of the bat
7 population and the rare plants on the site. We
8 have also looked more closely at wetland buffers
9 and reducing impacts to wetland buffers, and also
10 reviewed a few of the wetland delineation areas,
11 and made adjustments per recommendations of the
12 Town environmental reviewer.

13 And, like I previously stated, we've
14 also had further discussions with the New
15 Hampshire Department of Fish & Game and with DES.
16 So, in order to address concerns raised by these
17 groups, we have reduced wetland buffer impacts by
18 eliminating one internal road in the Project
19 layout.

20 And, even though New Hampshire Natural
21 Heritage Bureau indicated to us that the site
22 appeared unlikely to support rare plant species,
23 in response to the Counsel for Public's concerns,
24 we conducted an additional plant survey, and did

[WITNESS: Valleau]

1 not discover any plants that are included on the
2 Heritage Bureau's tracking list.

3 And, like I said, we also conducted
4 that additional bat survey, and provided those
5 results to Fish & Game, as well as to Counsel for
6 the Public.

7 And, as I stated in my original
8 testimony, and I want to confirm today, now
9 having the benefit of those additional studies, I
10 believe that this Project will not have an
11 unreasonable adverse impact on the natural
12 environment.

13 MR. PATCH: Okay. Thank you, Mr.
14 Valleau. The witness is available for
15 cross-examination.

16 MS. NEVILLE: Thank you.

17 First of all, Mr. Valleau, I just want
18 to state on the record that I greatly appreciate
19 the reaction the Applicant and you have taken to
20 Arrowwood Environmental's report.

21 I just have two lines of questions to
22 go through with you. One's related to deer
23 wintering yards and the other are bats.

24 **CROSS-EXAMINATION**

[WITNESS: Valteau]

1 BY MS. NEVILLE:

2 Q So, specific to the deer -- potential deer
3 wintering habitats. You just testified about a
4 document you submitted today for wildlife -- a
5 Wildlife Habitat Assessment. Did that document
6 in any way assess the deer -- any potential deer
7 wintering habitats on the site?

8 A No, it did not. The Env-Wq 1503.19(h) is only a
9 required assessment of threatened and endangered
10 species. It did not require assessment for any
11 other wildlife.

12 And, in our consultations with New
13 Hampshire Fish & Game, they never recommended
14 that we do any assessment of deer wintering for
15 the site.

16 Q Okay. So, to be clear, there has not been any
17 assessment of deer wintering habitats at this
18 site?

19 A Not on the ground. So, you know, as you know, we
20 received input from Arrowwood that there was
21 mapped deer wintering area on the site. So, I
22 contacted the New Hampshire Fish & Game deer
23 biologist, requested the mapping, because it's
24 not -- it's not widely publicly available, you

[WITNESS: Valteau]

1 have to request it, and he provided it to us.
2 And there were some deer wintering areas that do
3 coincide with the site and are adjacent to the
4 site, but that's the extent of it.

5 You know, in discussions with the deer
6 biologist for New Hampshire Fish & Game, he did
7 not think that we necessarily needed to do any
8 assessments.

9 Q And I know you mentioned no on-the-ground
10 assessments. There were aerial photos --

11 A Correct.

12 Q There were aerial photos that had been submitted
13 with the Application, correct?

14 A Correct. Yes.

15 Q And, subsequent to those aerial photos being
16 taken, additional logging occurred at the site,
17 correct?

18 A Correct.

19 Q So, those aerial photographs that have been
20 submitted are not necessarily accurate of the
21 site as it stands today, correct?

22 A You know, I'd have to double-check that. If
23 you're talking about the drone photography?

24 Q Yes.

[WITNESS: Valleau]

1 A Yes. I'd like to double-check the dates on that.

2 Q Okay. Fair enough. Do you know -- well, you're
3 aware, in Arrowwood's report, that they had
4 recommended construction and blasting not occur
5 between December 15th through March 15th. Do you
6 know if that recommendation has been incorporated
7 in any way into the Application -- into your
8 materials?

9 A It has not, no. We talked about clearing
10 restrictions with New Hampshire Fish & Game. And
11 they only recommended clearing restriction
12 windows for bats, which is between November and
13 the end of March.

14 Q So, I just want to make sure I understand what
15 you just said. Is the plan not to have
16 construction between November and March due to
17 the bats?

18 A Correct. There's a clearing -- the clearing
19 restriction is only between November and the end
20 of March.

21 Q And a clearing restriction would be, essentially,
22 timber harvesting or removing trees, right, or
23 brush?

24 A Yes. Yes. Tree removal can only take place

[WITNESS: Valteau]

1 between the 1st of November and March 31st,
2 following the recommendation of New Hampshire
3 Fish & Game.

4 Q And is there currently a blasting plan in place?

5 A No, there is not. Blasting is described in the
6 Application, and there's not a blasting plan in
7 place currently.

8 Q When would a blasting plan typically be put in
9 place, in your experience?

10 A Typically, it would be something that the
11 contractor would submit. So, it's once a
12 contractor has been engaged, and they have scoped
13 what might be necessary for blasting, then they
14 would come forward with a blasting plan.

15 Q Okay. And we've been going back and forth a
16 little bit about the blasting plan. It's my
17 understanding that that's typically after a
18 certificate issues. Is that accurate?

19 A Yes. Yes. And I do want to point out that
20 blasting is not necessarily a certainty on this
21 site. It would only be necessary if there's
22 potential for not -- for grading issues with the
23 road, to get the road to the proper grade to
24 manage stormwater coming from the road. And

[WITNESS: Valleau]

1 then, also, if there's need to get electrical
2 infrastructure to meet codes below grade. Those
3 are really the only two potential activities that
4 would require blasting.

5 Q And I apologize, but can you reiterate when
6 construction is anticipated should a certificate
7 issue?

8 A Well, you know, if it's issued in the winter,
9 then construction would start with clearing, if
10 you want to include "clearing" within your
11 definition of "construction". And then,
12 earthwork wouldn't start until probably after the
13 wet spring conditions, mud season, because
14 earthwork is inefficient when the ground is
15 frozen or wet. And, you know, so, they're going
16 to avoid those time of year -- that time of year
17 with earthwork.

18 Q I appreciate that. And then, do you have an
19 estimate of, if say they start late spring/early
20 summer, do you know how long it's anticipated to
21 take to complete construction?

22 A I'm not 100 percent familiar with the schedule.
23 Keith would probably be a better person to ask
24 directly on the schedule. But I believe this is

[WITNESS: Valteau]

1 a one-season construction project.

2 Q Okay. And then, if we jump to bats, we've been
3 talking about a potential rock feature monitoring
4 plan, correct?

5 A Correct.

6 Q And can you just explain to the Committee what
7 generally a rock feature monitoring plan would
8 be?

9 A Sure. So, if there is potential roosting habitat
10 for Eastern small-footed bat, which is that --
11 that habitat is made up of sun-exposed talus or
12 ledges that are fractured, typically, you know,
13 in the open, facing south, then we would use
14 acoustic detectors to see if those features are
15 being utilized by bats prior to work in those
16 areas.

17 And part of what we did for bat surveys
18 in August was identify rock features, which we
19 really identified two, both of which are
20 anthropogenic rock piles. One being a series of
21 rock walls that are exposed to the sun, and the
22 other is a large rock/boulder pile. Those are
23 piled up by previous activities on the site. And
24 we put bat detectors adjacent to both those. And

[WITNESS: Valteau]

1 we did not detect any Eastern small-footed bat
2 using those rocky features.

3 Q And is it anticipated that those two rocky
4 features will need to be blasted or moved?

5 A We don't necessarily anticipate moving either one
6 of them. But they were the two areas on the site
7 that met habitat for the species, or that
8 potentially met habitat for the species.
9 Usually, they're on larger rocky slopes that are
10 more like a talus field or, again, of exposed
11 open ledge. And neither of these were that sort
12 of feature. But they were the closest thing to a
13 rocky feature that we could find on the site.

14 Q So, is there an intention to incorporate a rock
15 feature monitoring plan should the certificate be
16 approved?

17 A Not at this point. We provided that report to
18 New Hampshire Fish & Game and sought input and
19 feedback from Sandra Houghton, who's the bat
20 biologist for New Hampshire Fish & Game. And she
21 didn't have any recommendations for incorporating
22 that into our plan. She was only interested in
23 making sure that we had the tree-clearing
24 restriction, to have tree-clearing only during

[WITNESS: Valteau]

1 the winter months.

2 MS. NEVILLE: Okay. Thank you. Those
3 are all the questions I have for this witness.

4 CHAIRWOMAN MARTIN: All right. Thank
5 you. Mr. Wilson, any questions?

6 DIR. WILSON: I have no questions for
7 this witness.

8 CHAIRWOMAN MARTIN: Okay. Thank you.
9 Mr. Oldenburg?

10 MR. OLDENBURG: Thank you. Just a few
11 questions.

12 BY MR. OLDENBURG:

13 Q This is not my forte or in my wheelhouse, but
14 what I did was a reviewed it for sort of a "sniff
15 test" of reasonableness. And the one thing that
16 struck me was the rare and endangered species,
17 the turtle, discussion on the turtle that was in
18 your prefiled testimony, and followed up and
19 agreed upon by Arrowwood Environmental.

20 And I just want to read you one
21 paragraph. It says "To help minimize the
22 potential of turtles entering the Project area
23 during construction, a perimeter silt fence will
24 be installed around the entirety of the

[WITNESS: Valteau]

1 construction area following turtle hibernation
2 and prior to spring emergence. The perimeter
3 fence" -- "silt fence will serve as a turtle
4 exclusion barrier. Small ramps will be installed
5 intermediately -- intermittently along the
6 interior of the perimeter fence, so if a turtle
7 enters the construction area, [they] will be able
8 to exit the exclusion area using a ramp."

9 So, -- so, --

10 A You're trying to picture that, right?

11 Q I am. So, first, the perimeter fence, when is --
12 when is turtle hibernation and when is their
13 emergence date?

14 A Yes. So, typically, they're going to be going
15 into hibernation or low activity periods, you
16 know. Some turtles actually are active
17 periodically during the winter, and those are the
18 ones that hibernate in the water, which wood
19 turtles do. But, anyhow, I digress.

20 It's usually November when they're
21 going to certainly be in hibernation. It depends
22 year-to-year on the climate. You know, if it's a
23 cold fall, they might go in early. They're
24 driven by air temperature and water temperature,

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1 being cold-blooded. And, so, then they will come
2 out in the spring, once the snow cover is gone,
3 the ice cover is starting to leave, and the water
4 temperature and ground temperature start to
5 increase. And, you know, so then they're active.

6 And, so, typically, we're looking at
7 November to April type of timeframe when they're
8 not active. So, if they're getting on the ground
9 to do earthwork in April, when there's still some
10 snow on the ground, we'd be pretty confident that
11 we can install a barrier without capturing
12 turtles inside the fence that are -- because
13 they're probably not hibernating in the uplands,
14 they're probably in the wetlands. And we're not
15 working in any of the wetlands for this Project.

16 Q Okay. Correct. So, the tree-clearing -- so, I
17 imagine the first thing that they're going to do
18 is clear the trees. And that's when they would
19 have to set up an erosion fence, a silt fence
20 around the site anyway. And that tree-clearing
21 is taking place in the winter, so that would
22 coincide with the hibernation of the turtles.
23 So, the silt fence that would go up around the
24 perimeter, that works, from when they anticipate

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1 doing the tree-clearing --

2 A Yes.

3 Q -- and turtle hibernation? So, --

4 A Yes. Well, and if they can't install the silt
5 fence, and turtles are still active, what happens
6 is we install the silt fence, and then somebody
7 has to walk the site looking for turtles, to make
8 sure that, if there are turtles within the silt
9 fence, they get moved out.

10 Q Right. And, so, these ramps that are needed, --

11 A Yes.

12 Q -- how many of them would there be and how far
13 apart would they be?

14 A There's quite a few. They're spaced no less than
15 300 feet apart, and this all based on Fish &
16 Game's recommendations. And they could be
17 constructed out of erosion control mulch, which
18 is stump grindings that are made on the site.
19 But, you know, I would prefer not to use that.
20 That would be more important to use for erosion
21 control. And Fish & Game said that they have
22 seen them made with hay bales and clean sand
23 fill. So, there's options on how to do it.

24 And, again, both of those, the

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1 perimeter fence and the ramps, are both Fish &
2 Game recommendations.

3 Q So, --

4 A We didn't just make it up. It was a request to
5 do it this way.

6 Q It just seems a tremendous effort, and I -- for a
7 site that's so large. So, is this recommendation
8 for the entire 129-acre site or is it just
9 certain areas?

10 A It's for the entire site, yes. And, so, it's
11 three and a half miles of silt fence, which is
12 primarily, you know, they're going to install
13 silt fence on much of the site anyhow, as part of
14 erosion control. And it could be, so -- and Joe
15 Persechino, who you will hear from later, is
16 probably going to talk about this. The
17 construction is also phased into smaller areas.
18 And it could be that we can focus on one area
19 with the silt fence perimeter, while they're
20 actively working it. And then, once that site is
21 done, then it could be that that -- that we don't
22 need to do that silt fence ramps and monitoring
23 after that site is done. We'll just have to see
24 how the construction sequence plays out.

[WITNESS: Valleau]

1 Q Okay. Because you sort of mentioned the -- the
2 other question that I had was the statement that
3 "An environmental monitor, who is a qualified
4 biologist, will inspect the perimeter...prior to
5 the start of construction each day in search of
6 turtles...and inspect the condition of the silt
7 fence."

8 And, if it's three miles long, they're
9 going to be up really early in the morning, I
10 would imagine, to do that every day?

11 A Yes. They will get their steps in.

12 Q Okay.

13 A Yes.

14 MR. OLDENBURG: Okay. I just, to me,
15 that struck me as an extraordinary measure to go
16 through. But, thank you. That's all the
17 questions I had.

18 CHAIRWOMAN MARTIN: Okay. Thank you.
19 Ms. Duprey, do you have any questions?

20 MS. DUPREY: I do not. Thank you.

21 CHAIRWOMAN MARTIN: Okay. Mr. Eaton?

22 MR. EATON: I do not either.

23 CHAIRWOMAN MARTIN: All right.

24 Mr. Arvelo?

[WITNESS: Valleau]

1 DIR. ARVELO: I have a couple
2 questions, more for my understanding, and
3 probably a follow-up to Mr. Oldenburg's
4 questions.

5 BY DIR. ARVELO:

6 Q So, can you help me understand the difference
7 between an "assessment" and a "study"? I know
8 that it seems like that the words have been used
9 interchangeably. But I'm assuming that there is
10 some difference in intensity of how those are
11 done. And, --

12 A Yes.

13 Q Go ahead.

14 A Do you want me to answer that one first?

15 Q Please.

16 A Yes. We haven't really formally adopted a
17 definition for either one. But probably, just
18 the way we've been discussing in this context, is
19 that the studies involve more in-depth specific
20 protocols that are field studies. So, that's
21 probably where the term "study" comes from. It's
22 a field study.

23 "Assessment" is more of a literature
24 research and desktop review. And things we look

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1 at there are peer-reviewed papers, lots of New
2 Hampshire Wildlife Action Plan, for example, is a
3 resource we use, aerial photography. It's
4 just -- if we're going to differentiate them, you
5 know, it doesn't involve a field study.

6 Q Okay. So, the follow-up question to that is, how
7 do you get at determining rare, threatened, and
8 endangered species in a specific spot, if you're
9 doing that from a desktop or from aerial studies
10 and literature reviews, without going to a spot
11 and really spending time and looking at what
12 might be there?

13 A Yes. So, the first thing we do is request data
14 from the State through Natural Heritage Bureau,
15 who maintains a database of all rare, threatened,
16 endangered specie observations. And that
17 provides a list of species that have been
18 observed, say, within a mile of a project site.

19 And then, the next step is that, if
20 there's any wildlife species there, we contact
21 New Hampshire Fish & Game directly, talk to their
22 rare wildlife biologist. And then, they
23 recommend if they want any studies done or
24 assessments done for those species. And then, we

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1 also look at other sources, such as the Wildlife
2 Action Plan or other wildlife information
3 resources, like, say, Cornell Bird website, or,
4 you know, there's a variety of things. And we
5 try to determine what species have a range that
6 coincide with the site. So, it's not just the
7 ones that have been observed. It's also ones
8 that have potential to be there.

9 And then, most rare species are rare
10 because they have specific habitat requirements.
11 And, if we have good aerial photography,
12 sometimes you can pick out those sites. Like, if
13 we had large exposures of rock, we'd be able to
14 see that from aerial photography. Or, if a
15 species only really lived in open-water wetlands,
16 we'd also be able to see that with aerial
17 photography. And then, we could follow that up
18 with data from ground surveys, like wetland
19 surveys, where we characterize vegetation and
20 soils. So, you know, you can do quite a bit with
21 a desktop review.

22 And then, you know, being rare, that
23 it's hard to find rare species. So, if you do
24 the studies and surveys on the ground and don't

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1 find them, but you have potential habitat, kind
2 of the next step is to come up with methods or
3 practices that will help to minimize or avoid
4 impacts to them. So, that's how we ended up with
5 the turtle recommendations, for example. You
6 know, we could have done turtle surveys and not
7 necessarily found any. But they know that
8 they're within a mile of the site. So, Fish &
9 Game recommended we incorporate these practices
10 to help avoid impacting them.

11 Q Okay. Thank you.

12 A Go ahead.

13 Q Just to follow up on Mr. Oldenburg's questioning
14 around silt fences and turtles, because I myself
15 am struggling to kind of visualize that and how
16 that happens over a large span of space. And I'm
17 trying to -- I don't know what silt fences look
18 like. I mean, I've probably seen them, but I
19 can't picture them in my mind right now.

20 Is this a barrier -- is this barrier
21 going to in any way prevent turtles going from,
22 let's say, one vernal pool or wetland to another?
23 Is there going to be limitations in their moving
24 around with this stuff going up? And, if so, how

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1 do you get around that?

2 A Yes. For this site, during construction, it will
3 provide a barrier. So, a silt fence is woven
4 fabric that's on stakes. And you typically see
5 it around a construction site. It's about three
6 feet tall.

7 Q Okay.

8 A So, that's what it looks like. And it will be in
9 place, you know, for the duration of the
10 construction, to protect them from getting into
11 the site. But, with this Project layout, we're
12 not impacting wetlands, and we've designed around
13 wetlands. And there's actually corridors that go
14 across the site. So, if a small animal hits --
15 bumps into the silt fence, they will follow the
16 silt fence until -- and the silt fence, you know,
17 has a perimeter around it. So, they will follow
18 around the perimeter and get around it. And
19 there's wetland corridors in between each of the
20 construction areas. So, there's actually open
21 habitat in between travel corridors for them to
22 traverse the site.

23 Q Okay. So, I'm assuming that in the spring is
24 when turtles become active and begin to think

[WITNESS: Valteau]

1 about replicating themselves and so on and so
2 forth. So, there's no impact on any of that
3 activity?

4 A There could be some impact to their maybe
5 efficient movement across the landscape. It
6 might slow some of the turtles down, if they
7 wanted to cross this site. But there's still
8 opportunities and openings around the perimeter
9 of each array area for the turtles to sort of
10 traverse the site and get by it.

11 And the other thing is, we didn't see a
12 lot of what we would call "turtle nesting
13 habitat". You know, you often see the turtle on
14 the side of the road in gravel or sand. That's
15 typically where they like to nest. And this site
16 didn't have a lot of open, exposed sand on it.

17 But, that said, there's still the
18 opportunity for them to get around and by it.
19 And, if it's a one-season construction project,
20 they may be interrupted for that one season. But
21 then, after that, during operations, the fencing
22 around the arrays purposefully has a gap
23 underneath it for them to be able to traverse the
24 site unimpeded.

[WITNESS: Valleau]

1 Q And you mentioned that you would have -- there
2 would be a person who would go around and check
3 to make sure turtles are not within the
4 construction zone and so forth. Will there be a
5 record kept of that on a kind of daily activity
6 for future wildlife management, for example, or
7 to mitigate any future impacts? Even just to
8 have a better sense of what the wildlife -- what
9 wildlife exists within the area?

10 A Yes. Well, as part of the recommendations of
11 Fish & Game, if there's any turtles encountered,
12 they want us to contact them. And, so, there
13 will be recordkeeping in that form.

14 DIR. ARVELO: Okay. Thank you. Those
15 are all my questions. Thank you.

16 CHAIRWOMAN MARTIN: Okay.

17 Mr. Pelletier, do you have questions?

18 MR. PELLETIER: No. I'm good. Thank
19 you.

20 CHAIRWOMAN MARTIN: All right. I just
21 have one question.

22 BY CHAIRWOMAN MARTIN:

23 Q You had mentioned that there would be a clearing
24 restriction between November 1st and the end of

[WITNESS: Valleau]

1 March. But, when you were asked later, if the
2 certificate was issued -- when the certificate
3 might be issued and what would happen, you said
4 "if issued in the winter, clearing would begin."
5 Could you just clarify that for me?

6 A Yes. So, the restriction is to not clear during
7 the summer months, when bats are active and
8 roosting out on the landscape. During the
9 winter, the bats aren't present. They're not
10 roosting in the trees. They're not foraging on
11 the landscape. And, so, the restriction is to
12 only clear during the winter months, November
13 through the end of March.

14 Q Okay. So, those are the months when there's no
15 restriction on the clearing?

16 A Right. Correct.

17 CHAIRWOMAN MARTIN: Okay. Got it. All
18 right. Thank you.

19 Attorney Iacopino, any questions?

20 MR. IACOPINO: Just a couple. Thank
21 you, Madam Chair.

22 BY MR. IACOPINO:

23 Q Mr. Valleau, as I understand it, there is still a
24 dispute, for lack of a better word, between you

[WITNESS: Valteau]

1 and Counsel for the Public's consultants with
2 respect to the issue of the deer wintering yards.
3 Is that your understanding as well?

4 A I wouldn't call it a "dispute". But, you know, I
5 talked to the deer biologist, Dan Bergeron, for
6 New Hampshire Fish & Game, and he wasn't
7 concerned about it. He didn't think -- he
8 doesn't -- he didn't feel that the deer wintering
9 area maps were necessarily the right tool to
10 determine where deer are wintering. And he also
11 didn't express a lot of concern about southern
12 New Hampshire deer wintering.

13 So, again, I wouldn't call it a
14 "dispute". It's, you know, the typical channels
15 that we go through with the species that are
16 managed by the State is to talk to the State
17 agency, to see if they have concerns about it.

18 Q How much time have you spent out on the site?

19 A Quite a bit.

20 Q Have you seen any evidence of deer wintering
21 havens or deer wintering yards on the site?

22 A There is one area where there was some winter
23 browse, in kind of near the south/southeast
24 corner of the Project. But there's no good

[WITNESS: Valteau]

1 thermal refuge for deer, which is dense softwoods
2 that's in a low-lying area. But, within the
3 Project parcel, there is. And it's -- it's, you
4 know, outside of the develop -- the proposed
5 development area.

6 Q Okay. The browse that you observed yourself, is
7 that within the development area?

8 A It's within the south/southeast corner, yes. And
9 it's outlined in testimony provided by Arrowwood,
10 it shows where that is.

11 Q Okay.

12 A I was with Arrowwood on their site visit, too.
13 So, I'm familiar with what they saw as well.

14 Q Okay. Thank you. I'm going to switch gears now.
15 I just want to ask you about, there was something
16 you filed with Fish & Game apparently today. At
17 the beginning of your testimony, you went over I
18 think it was termed "updates". And you went --
19 you talked about an additional bat survey,
20 additional rare plant survey.

21 If I understand correctly, those are
22 all things that are already attached to your
23 supplemental prefiled testimony, am I correct?

24 A Those are, correct. What I filed with Fish &

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1 Game and DES today is an assessment to address
2 Rule 1503.19(h), which is what DES recommended we
3 do. And, you know, that's the rule that DES
4 instituted in June of this year, June 2nd this
5 year.

6 Q Is there anything else that DES is expecting from
7 you, with respect to either Fish & Game or other
8 wildlife recommendations, as far as you know?

9 A As far as I know, there is nothing else.

10 Q Is there anything else that Fish -- that Fish &
11 Game is requesting of you?

12 A No. Nothing else. I had correspondence with
13 Melissa Doperalski this morning, who is
14 coordinating on DES wildlife issues, and she said
15 that she has everything she needs.

16 Q And, as far as you know, is there any further
17 consultation expected with the Natural Heritage
18 Bureau?

19 A I submitted the rare plant report to them earlier
20 in August, I think -- I think, maybe August 24th,
21 something like that. And I got a note back from
22 Amy Lamb, at Natural Heritage, who thanked me for
23 providing the report to her. And that's all we
24 expect.

[WITNESS: Valteau]

1 Previous to that, she had said that she
2 didn't expect any rare species for the site. But
3 we wanted to make sure we were thorough, to help
4 address Arrowwood's questions about it.

5 Q And you're familiar with the conditions required
6 on the Final Decision of DES for the Alteration
7 of Terrain Permit?

8 A Yes. Yes.

9 Q Okay. And the first three conditions in that
10 decision were things that were to be provided to
11 DES by September 4th. And I understand that the
12 Applicant has provided those things, correct?

13 A Correct.

14 Q Has the Applicant received any acknowledgment
15 from DES or any indication that they are
16 satisfied or dissatisfied with what has been
17 provided?

18 A I'm not aware that we have. It could be that
19 that would have been provided to Mr. Persechino.

20 MR. IACOPINO: Okay. Thank you. No
21 further questions.

22 CHAIRWOMAN MARTIN: Okay. Any
23 redirect?

24 MR. OLDENBURG: Madam Chair, could I

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1 ask a follow-up question?

2 CHAIRWOMAN MARTIN: Of course you can.

3 Go ahead.

4 BY MR. OLDENBURG:

5 Q There was another question I failed to ask, and
6 it dealt with the Arrowwood report. Counsel for
7 the Public Exhibit 49, [CFP Exhibit 2?] on
8 Page 30. It says -- it's about turtles again.
9 It says that "It is our understanding that some
10 details of these measures", meaning the
11 mitigation measures, "are still being developed
12 and they have not yet been incorporated into
13 the final [formal?] commitment by the Applicant."

14 And it goes on in their "Conclusion" to
15 say "firm commitments to implement these measures
16 from the Applicant should be obtained."

17 I'm assuming by your testimony today
18 that these are your commitments, with regard to
19 the turtle habitat and the mitigation efforts?

20 A Correct. Yes. And that's been incorporated into
21 a detailed sheet in the engineering plan that's
22 current. And also, they have been incorporated
23 into the Wildlife Assessment that we just
24 finalized today with DES and Fish & Game.

[WITNESS: Valleau]

1 MR. IACOPINO: Madam Chair, I would
2 just point out that Exhibit 82 is the detail
3 sheet to which Mr. Valleau is referring. Most of
4 the Committee members don't yet have it, because
5 it was very large for us to get out. But we will
6 make arrangements to get it out to all of you.
7 We received it today, I believe. It's the
8 revised design plans.

9 CHAIRWOMAN MARTIN: Okay. Thank you
10 for letting us know that.

11 MR. OLDENBURG: Thank you. That's all.

12 CHAIRWOMAN MARTIN: All right. Any
13 redirect?

14 MR. PATCH: Yes. Thank you. I have a
15 couple of questions.

16 **REDIRECT EXAMINATION**

17 BY MR. PATCH:

18 Q Mr. Valleau, in response to a question about
19 aerial photographs of the site, you were asked
20 about additional logging that has taken place at
21 the Project site. And just to be clear for the
22 record, that additional logging, none of that's
23 been done by the Applicant, NextEra, has it?

24 A No. No. And, really, the only way I would be

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1 aware of it is doing a site visit to see it.

2 And, so, I don't know the timing, necessarily.

3 You know, if there was new logging, it would have
4 happened after the last time I had been to the
5 site.

6 Q NextEra, in fact, only has options to purchase
7 and one option to lease on the land associated
8 with this Project that have not yet been
9 exercised, correct?

10 A To my knowledge, yes.

11 Q And, so, they have no right to log on that site
12 at this point in time?

13 A Correct.

14 Q In response to a question about rock features or
15 in your description of rock features, you used
16 the word "anthropogenic", I believe it was.

17 A Yes.

18 Q And just to be clear for the record, what does
19 that word mean?

20 A That means something that was made by humans --

21 Q Okay. So, --

22 A -- or altered by humans.

23 Q So, there were no rock features that you're aware
24 of at the site, I mean, you had talked, I think,

[WITNESS: Valteau]

1 about, you know, some cliffs or other kinds of
2 rock features that are sometimes of concern for
3 bats. But there are none of those on this site,
4 is that correct?

5 A Yes. There were no natural rock features.

6 Q And I believe attached to your supplemental
7 testimony is a picture of one of the rock
8 features, which was taken by Counsel for the
9 Public's witness, correct?

10 A Correct.

11 Q And that's a good example of what they mean by
12 "rock features" and the anthropogenic ones that
13 you were referring to, correct?

14 A Correct.

15 Q And just for the record, your supplemental
16 testimony is "Exhibit 70", "Applicant's Exhibit
17 70"?

18 A Yes. And there are some -- and I think that
19 included the bat survey report, and that includes
20 some additional photos of those anthropogenic
21 rock features of the ones that we sampled and,
22 you know, as being the most suitable for
23 potential habitat.

24 MR. PATCH: That's all the questions I

[WITNESS: Valleau]

1 have. Thank you.

2 CHAIRWOMAN MARTIN: Okay. Any
3 follow-up, Attorney Neville?

4 *(Atty. Neville indicating in the*
5 *negative.)*

6 CHAIRWOMAN MARTIN: All right. I think
7 it's 4:17 right now. I'm wondering if counsel
8 thinks this is a good breaking point?

9 MR. PATCH: I think it would be a good
10 breaking point. Then, we could start fresh on
11 Friday with the panel, you know, Mr. Persechino
12 and Mr. Delallo. So, I think that would be best.

13 CHAIRWOMAN MARTIN: Okay. How about
14 you, Attorney Neville, do you agree?

15 *(Atty. Neville indicating in the*
16 *positive.)*

17 CHAIRWOMAN MARTIN: Okay. Great.

18 So, before we wrap up, I want to make
19 sure we're all on the same page with the record
20 requests I have.

21 The first record request will relate to
22 the subdivision that Attorney Patch mentioned.
23 The second relates to the assumptions related to
24 the bond and the waiver. And I think we're going

1 to hold off on the third one regarding data
2 supporting the bond amount until after we hear
3 from Mr. Persechino.

4 Is that what everyone else has?
5 Attorney Geiger.

6 MR. PATCH: Yes. That's what I had.

7 MS. GEIGER: I thought there was
8 another question asking for a definition of
9 "operational control"?

10 CHAIRWOMAN MARTIN: Yes. There was --
11 I raised the question of the language -- the
12 proposed language was stated on the record, if
13 that could be submitted.

14 MS. GEIGER: Sure.

15 CHAIRWOMAN MARTIN: Also, a proposed
16 definition of "operational control".

17 MS. GEIGER: Okay. So, --

18 CHAIRWOMAN MARTIN: So, we'll make that
19 the third record request.

20 MS. GEIGER: So, the third record
21 request is a definition of "operational control"?

22 CHAIRWOMAN MARTIN: And the proposed
23 language regarding a change in ownership.

24 MS. GEIGER: Okay. Great. Thank you.

1 CHAIRWOMAN MARTIN: Okay. Attorney
2 Iacopino, anything else that you think we need to
3 cover today?

4 MR. IACOPINO: No. But I did think we
5 asked Mr. Patch, he was going to provide us with
6 the language that he would like to see if the
7 certificate is granted with respect to the
8 subdivision.

9 CHAIRWOMAN MARTIN: I think that's in
10 the letter that will be Record Request Number 1.

11 MR. IACOPINO: Okay. Great. Thank
12 you.

13 MR. PATCH: Yes. That's what I was
14 assuming.

15 MR. IACOPINO: I don't have anything
16 else as far as requests go then.

17 CHAIRWOMAN MARTIN: Excellent. Well,
18 thank you, everybody. We made it through Day 1.
19 We'll break for the day and resume on Friday,
20 September 18th, at 9:00 a.m. Okay. We're
21 adjourned.

22 **(Whereupon Day 1 was adjourned at 4:20**
23 **p.m., and Day 2 to commence on**
24 **September 18th, at 9:00 a.m.)**

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C E R T I F I C A T E

I, **Steven. E. Patnaude**, a Licensed Shorthand Court Reporter, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action; and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

Steven E. Patnaude, LCR
Licensed Court Reporter
N.H. LCR No. 52
(RSA 310-A:173)